

OAKLEY



CALIFORNIA

Agenda Date: 09/13/2016

Agenda Item: 3.18

STAFF REPORT

Date: September 13, 2016

To: City Council

From: Bryan Montgomery, City Manager

A handwritten signature in black ink, appearing to read 'B. Montgomery', written over the printed name of the City Manager.

SUBJECT: **Approval of Master Compensation Agreement with Taxing Entities regarding the former Oakley Redevelopment Agency Properties**

Summary and Background

State Law requires the Successor Agency, with the guidance and approvals of the Oversight Board and State Department of Finance, to move forward with the winding down of the Redevelopment Agency's affairs as expeditiously as possible. ABx1 26, and as further amended (collectively referred to as the Dissolution Act), provides that once the Agency has complied with numerous State requirements and obtained a Finding of Completion, it may propose a plan for managing and ultimately disposing of its assets. The required plan is called the "Long Range Property Management Plan" (LRPMP) and must be approved by the Oversight Board and the State Department of Finance (DOF); which approval was granted in December of last year (see Attachment #1).

While it is not entirely clear that properties approved for "Future Development" require a compensation agreement with the taxing entities at this time, the DOF has requested that such an agreement be reached with the taxing entities. What is proposed with this action is the City agreeing to enter into the Agreement as one of the taxing entities. (These are the entities that share in the 1% property tax allocation – see list in Attachment #2).

The Master Compensation Agreement with Taxing Entities (Attachment #3) is essentially the same agreement used by other Successor Agencies in the County and calls for any net proceeds off the sale of these properties, as defined in the Agreement, be distributed to the taxing entities in proportion to each entity's share of the 1% property tax and pursuant to the Dissolution Act. A companion item is on this agenda for the Successor Agency to act and the Oversight Board will also be reviewing the Agreement at its September 19th meeting. If approved, the Agreement will then be presented to each taxing entity for its consideration.

Fiscal Impact

Exact portion of the proceeds from the sale of any of these properties is unknown, however, the City would receive approximately 8% of any net proceeds as described in the Agreement.

Recommendation

Approve the Master Compensation Agreement and authorize the City Manager to execute the Agreement.

Attachments

1. DOF approval letter
2. List of Taxing Entities
3. Proposed Agreement
4. Resolution



December 30, 2015

Ms. Deborah Sultan, Finance Director
City of Oakley
3231 Main Street
Oakley, CA 94561

Dear Mr. Abelson:

Subject: Long-Range Property Management Plan

Pursuant to Health and Safety Code (HSC) section 34191.5 (b), the City of Oakley Successor Agency (Agency) submitted a Long-Range Property Management Plan (LRPMP) to the California Department of Finance (Finance) on November 26, 2014. The Agency subsequently submitted a revised LRPMP to Finance on December 17, 2015. Finance has completed its review of the LRPMP, which may have included obtaining clarification for various items.

The Agency received a Finding of Completion on August 15, 2014. Further, based on our review and application of the law, we are approving the Agency's use or disposition of all the properties listed on the LRPMP. Our approval also took into account the following clarification provided by the Agency:

Property No. 7 – 3330 Main Street. This property will be transferred to the City of Oakley (City) for future development. However, the stated intent for the City and the taxing entities to enter into a compensation agreement pursuant to HSC section 34180 (f) was inadvertently omitted from the LRPMP. All other properties to be transferred to the City for future development include language stating the City and taxing entities will enter into a compensation agreement. Additionally, the Agency confirmed that the City and taxing entities will enter into a compensation agreement for the property located at 3330 Main Street.

- Property No. 10 – 1731 Main Street. This property will be transferred to the City for future development; however, the LRPMP indicates the City and taxing entities will only enter into a compensation agreement for the portion of the property not used for the widening of Main Street. The Agency is reminded that, because the entire property is being transferred to the City for future development, the City and the taxing entities must enter into a compensation agreement for the entire parcel pursuant to HSC section 34180 (f).

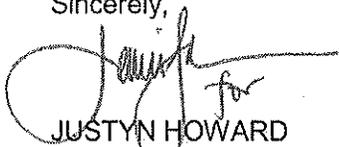
In accordance with HSC section 34191.4 (a), upon receiving a Finding of Completion from Finance and approval of a LRPMP, all real property and interests in real property shall be transferred to the Community Redevelopment Property Trust Fund of the Agency, unless that property is subject to the requirements of an existing enforceable obligation. Pursuant to HSC section 34191.3 (a) the approved LRPMP shall govern, and supersede all other provisions

Ms. Deborah Sultan
December 30, 2015
Page 2

relating to, the disposition and use of all the real property assets of the former redevelopment agency.

Please direct inquiries to Nichelle Thomas, Supervisor, or Alex Watt, Lead Analyst at (916) 445-1546.

Sincerely,

A handwritten signature in black ink, appearing to read "Justyn Howard", with a large, stylized flourish at the end.

JUSTYN HOWARD
Program Budget Manager

cc: Mr. Bryan Montgomery, Executive Director, City of Oakley
Mr. Bob Campbell, Auditor-Controller, Contra Costa County

**Tax Rate Area 19029
Allocation of Basic 1% Property Tax
Fiscal Year 2015-2016**

COUNTY GENERAL	11.65515 %
COUNTY LIBRARY	1.90316 %
C C FLOOD CONTROL	0.22342 %
FLOOD CONTROL Z-1	2.12243 %
EAST CO CO FIRE	4.98072 %
CC RES CONSV	0.02065 %
CO CO MOSQUITO ABA	1.97079 %
IRONHOUSE SANITARY	1.02127 %
CONTRA COSTA WATER	0.35671 %
BART	0.80512 %
BAY AREA AIR MGMNT	0.23478 %
CITY OF OAKLEY	6.88294 %
OAKLEY POLICE SVC	1.20553 %
LIBERTY HIGH	17.31306 %
BRENTWOOD ELEM	2.55845 %
BYRON ELEMENTARY	1.49893 %
KNIGHTSEN ELEM	1.06947 %
OAKLEY ELEM	16.61274 %
CO SUPT SCHOOLS	2.15981 %
K-12 SCHOOLS ERAF	17.33358 %
CO CO COMM COLLEGE	5.49042 %
COMM COLLEGE ERAF	2.58087 %
TOTAL	100.00000 %

[Frequently Asked Questions](#)

Close Window

**MASTER COMPENSATION AGREEMENT
WITH TAXING ENTITIES REGARDING
FORMER OAKLEY REDEVELOPMENT AGENCY PROPERTIES**

This MASTER COMPENSATION AGREEMENT WITH TAXING ENTITIES (this “**Agreement**”), dated as of _____ 2016, is entered into by and among the City of Oakley, a municipal corporation (the “**City**”), with offices located at 3231 Main Street, Oakley, California, and the following public agencies (each, a “**Taxing Entity**,” collectively referred to herein as the “**Taxing Entities**,” and together with the City the “**Parties**”):

County of Contra Costa, a political subdivision of the State of California (“**County**”);
County of Contra Costa Flood Control and Water Conservation District;
Contra Costa County Library
City of Oakley
Contra Costa County Community College District (“**CCD**”)
Liberty Union High School District
Oakley Union Elementary School District
Brentwood Elementary School District
Byron Union School District
Knightsen Elementary School District
Contra Costa County Superintendent of Schools (“**Superintendent**”);
Contra Costa County Water District
Contra Costa Resource Conservation District
Ironhouse Sanitary District
Bay Area Air Quality Management District
Contra Costa County Mosquito and Vector Control District
San Francisco Bay Area Rapid Transit District
East Bay Regional Parks District (“**EBRPD**”); and
East Contra Costa Fire Protection District (“**ECCFPD**”)

RECITALS

A. Pursuant to Assembly Bill xl 26 (together with AB 1484 and SB 107, the “**Dissolution Act**”), the Redevelopment Agency of the City of Oakley (“**Redevelopment Agency**”) was dissolved effective February 1, 2012, and pursuant to Health & Safety Code Section 34173, the City elected to serve as the successor agency to the dissolved Redevelopment Agency (the “**Successor Agency**”).

B. Pursuant to Health and Safety Code Section 34191.5, the Successor Agency prepared a Long-Range Property Management Plan (“**LRPMP**”) that addresses disposition and use of the real property formerly owned by the Redevelopment Agency.

C. On December 17, 2015, the LRPMP was approved by resolution of the Oversight Board to the Successor Agency (the “**Oversight Board**”), a seven-member board established pursuant to Health and Safety Code Section 34179 that includes representatives

appointed by the County Board of Supervisors, the Mayor of the City, the Superintendent, the Chancellor of the California Community Colleges, and ECCFPD.

D. On December 30, 2015, the California State Department of Finance approved the LRPMP.

E. Pursuant to the LRPMP, the Successor Agency has transferred certain real property assets to the City for future development, subject to entering into this Agreement with the Taxing Entities for the distribution of funds received, if any, from the sale of such properties.

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is acknowledged, the Parties agree as follows:

1. **Purpose.** This Agreement is executed with reference to the facts set forth in the foregoing Recitals, which are incorporated into this Agreement by this reference. The purpose of this Agreement is to address the allocation of certain prospective revenues among the Taxing Entities that share in the property tax in proportion to their shares of the property tax base, as determined under the Dissolution Act ("**Tax Increment**") for properties located within the Oakley Redevelopment Project in the City of Oakley (the "**Project Area**") formerly administered by the Redevelopment Agency.

2. **Special Districts and Funds.** The governing boards of certain of the Taxing Entities administer certain special districts and funds that receive allocations of property taxes from the Tax Base, and are authorized to execute this Agreement on behalf of such special districts and funds as described below.

2.1 County Funds. The County administers the following special districts and funds, and in addition to entering into this Agreement for the County itself, the County Board of Supervisors, acting in its various capacities, has authorized the execution of this Agreement by the following:

Contra Costa County Library
Contra Costa County Flood Control and Water Conservation District
Contra Costa County Water Agency

2.2 County Superintendent Funds. The Superintendent administers the following special funds, and in addition to entering into this Agreement for the Superintendent itself, the Superintendent is authorized to, and has entered into and executed this Agreement on behalf of the following:

Contra Costa County Superintendent of Schools
K-12 ERAF

2.3 Contra Costa Community College District. CCD administers the following special districts and funds, and in addition to entering into this Agreement for CCD itself, CCD is authorized to, and has entered into and executed this Agreement on behalf of the following:

Contra Costa Community College District
Community College ERAF

3. **Parcels to be Conveyed for Future Development Consistent with Plans.** Pursuant to the LRPMP, four (4) properties of the fourteen (14) parcels formerly owned by the Redevelopment Agency will be transferred by the Successor Agency to the City for disposition consistent with the redevelopment plan adopted for the Project Area, the implementation plans adopted in connection with the Project Area redevelopment plan, and the City of Oakley general plan (all of the foregoing, collectively, the “Plans”). These four (4) parcels (collectively, the “Property”) are more fully described in Attachment A attached hereto.

4. **Parcels to be Conveyed to the City for Governmental Uses.** The LRPMP also provides that seven (7) parcels formerly owned by the Redevelopment Agency will be transferred by the Successor Agency to the City for continued governmental uses. No compensation will be paid to the City or to the Taxing Entities in connection with the foregoing transfers. The properties are described in Attachment B.

5. **Parcels to be Sold.** The LRPMP also provides that three (3) parcels formerly owned by the Redevelopment Agency will be sold. One (1) parcel has been sold with proceeds going to fulfill enforceable obligations pursuant to the LRMP. Two (2) parcels are yet to be sold and net proceeds will be remitted, when sold, to the Contra Costa County Auditor Controller to be distributed to the Taxing Entities based on each Taxing Entity’s pro rata share of the Tax Base (pursuant to Health and Safety Code Section 34188 or other applicable law). The properties are described in Attachment C.

6. **Compensation to Taxing Entities for Future Development Properties.**

6.1 **City to Remit Proceeds.** Consistent with the LRPMP, the City shall remit to the Contra Costa County Auditor-Controller the Net Unrestricted Proceeds, if any, from the conveyance of any of the future development parcels to any private (non-public agency) third party, from the conveyance of the Development Property within 30 days after receipt by the City. The Auditor-Controller thereafter shall have the obligation to distribute to the Taxing Entities in accordance with each Taxing Entity’s pro rata share of the Tax Base (pursuant to Health and Safety Code Section 34188 or other applicable law) the Net Unrestricted Proceeds remitted to the Auditor-Controller by the City pursuant to this Agreement. The Parties acknowledge and agree that City is obligated to convey the Development Property consistent with the LRPMP and terms and conditions governing the disposition of the Development Property by and between the purchaser of the parcels that comprise the Development Property.

6.2 **Net Unrestricted Proceeds.** For purposes of this Agreement, the term “Net Unrestricted Proceeds” means the sale proceeds received by the City for the sale of any parcel included in the Property (or any portion thereof) to a private (non-public agency) third party, less: (i) costs incurred by the City for expenses incurred in connection with the management, maintenance, and disposition of the Property, including without limitation, costs incurred for property management, maintenance, insurance, marketing, appraisals, brokers' fees, escrow, closing costs, survey, title insurance, attorneys' and consultants' fees, and other reasonable costs incurred, including reasonable compensation for City staff performing functions associated with the management, maintenance, and disposition of the Property; and, (ii) any proceeds of sale that are restricted by the documents governing the source of funds that were used for the original acquisition of the Property; e.g., grant funding documents, bond indentures, bond purchase

agreements, etc. (three of the properties were acquired with proceeds from tax-exempt bonds and are restricted by bond covenants). Upon the request of a Taxing Entity, the City shall deliver an accounting of all such costs, expenses and restricted proceeds.

7. **City as Taxing Entity.** The Parties hereby acknowledge that the City is also a Taxing Entity for purposes of receiving funds pursuant to Section 5 of this Agreement.

8. **Compensation Agreement.**

8.1 LRPMP Governs. The Parties acknowledge that Health and Safety Code Section 34191.3 provides that once a LRPMP has been approved by the California Department of Finance, the LRPMP shall govern and supersede all other provisions of the Dissolution Act relating to the disposition and use of the former redevelopment agency's real property assets. The Successor Agency interprets Health and Safety Code Sections 34191.3 and 34191.5 to mean that, once a long-range property management plan has been approved by DOF, agreements with taxing entities are not required in connection with the disposition of a successor agency's real property to the sponsoring city for governmental uses or for subsequent disposition for future development. Nevertheless, pursuant to DOF direction, the City enters into this Agreement with the Taxing Entities to address the disposition of the Property pursuant to the LRPMP.

8.2 Reservation of Rights; LRPMP Compliance. The Parties intend this Agreement to satisfy requirements under the LRPMP. The reserves its rights and, if a court order, legislation or Department of Finance policy reverses the requirement of the City to enter into this Agreement, the Parties acknowledge that it will not be necessary for the City to enter into this Agreement with the Taxing Entities, and in such event, the City will be permitted to dispose of the Property even if this Agreement has not been executed by all Taxing Entities. Notwithstanding the foregoing, the City intends to comply with the provisions of the LRPMP that require payment of Net Unrestricted Proceeds to the Taxing Entities upon sale of the Property.

9. **Miscellaneous Provisions.**

9.1 Notices. Except as otherwise specified in this Agreement, all notices to be sent pursuant to this Agreement shall be made in writing, and sent to the Parties at their respective addresses specified on the signature pages to this Agreement or to such other address as a Party may designate by written notice delivered to the other Parties in accordance with this Section. All such notices shall be sent by: (i) personal delivery, in which case notice is effective upon delivery; (ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt; or (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service.

9.2 Headings; Interpretation. The section headings and captions used herein are solely for convenience and shall not be used to interpret this Agreement. The Parties agree that this Agreement shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if all Parties had prepared it.

9.3 Action or Approval. Whenever action or approval by City is required under this Agreement, the City Manager or his or her designee may act on or approve such matter unless

specifically provided otherwise, or unless the City Manager determines in his or her discretion that such action or approval requires referral to City Council for consideration.

9.4 Entire Agreement. This Agreement, including Attachment A and Attachment B attached hereto and incorporated herein by this reference, contains the entire agreement among the Parties with respect to the subject matter hereof, and supersedes all prior written or oral agreements, understandings, representations or statements between the Parties with respect to the subject matter hereof.

9.5 Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which taken together shall constitute one instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto having additional signature pages executed by the other Parties. Any executed counterpart of this Agreement may be delivered to the other Parties by facsimile and shall be deemed as binding as if an originally signed counterpart was delivered.

9.6 Severability. If any term, provision, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect unless an essential purpose of this Agreement is defeated by such invalidity or unenforceability.

9.7 No Third Party Beneficiaries. Except as expressly set forth herein, nothing contained in this Agreement is intended to or shall be deemed to confer upon any person, other than the Parties and their respective successors and assigns, any rights or remedies hereunder.

9.8 Parties Not Co-Venturers; Independent Contractor; No Agency Relationship. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another. The relationship of the Parties shall not be construed as a joint venture, equity venture, partnership or any other relationship.

9.9 Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to principles of conflicts of laws. Any action to enforce or interpret this Agreement shall be filed and heard in the Superior Court of Contra Costa County, California or in the Federal District Court for the Northern District of California.

SIGNATURES ON FOLLOWING PAGES.

IN WITNESS WHEREOF, the Parties have executed this Agreement by their authorized representatives as indicated below.

CITY OF OAKLEY, A MUNICIPAL CORPORATION

By:

Bryan H. Montgomery
City Manager

Attest by:

Libby Vreonis
City Clerk

Approved as to form:

Bill Galstan
Special Counsel

Address for Notices:

City of Oakley
3231 Main Street
Oakley, California 94561
Attention: City Manager

SIGNATURES CONTINUE ON FOLLOWING PAGES.

The undersigned authorized signatory hereby executes this Agreement on behalf of the County of Contra Costa and the entities and funds set forth in Section 2.1 of this Agreement:

ALL TAXING AGENCIES TO COUNTERSIGN as to this form >>>

By:

Name:

Title:

Attest by:

Approved as to form:

County Counsel

Address for Notices:

ATTACHMENT A

Parcels to be conveyed for Future Development consistent with the Plans, as approved by the State Department of Finance:

LRPMP Property #	Address	Property Type	If a Sale, intended use of sale proceeds	Permissible Use Detail
7	3330 Main Street	Public Building and parking lot	Fulfill an Enforceable Obligation	If ever sold, the proceeds will be restricted to comply with bond covenants, as the property was originally purchased with tax-exempt bond proceeds. The proceeds would first be applied to meet bond funded enforceable obligations; and any remainder would be used to defease the bonded indebtedness.
10	1731 Main Street	Vacant Lot/land	Agreement with Taxing Entities	Widening of Main Street and with remnant, City and Taxing Entities will enter into a compensation agreement.
11	1033 Main Street	Vacant Lot/Land	Fulfill an Enforceable Obligation	City will enter into a compensation agreement with Taxing Entities - proceeds of a sale will be restricted to comply with bond covenants, as the property was originally purchased with tax-exempt bond proceeds. The proceeds would first be applied to meet bond-funded enforceable obligations; and any remainder would be used to defease the bonded indebtedness.
12	5400 Neroly Road	Vacant Lot/Land	Fulfill an Enforceable Obligation	City will enter into a compensation agreement with Taxing Entities - proceeds of a sale will be restricted to comply with bond covenants, as the property was originally purchased with tax-exempt bond proceeds. The proceeds would first be applied to meet bond-funded enforceable obligations; and any remainder would be used to defease the bonded indebtedness.

ATTACHMENT B

Parcels to be conveyed for Governmental Purpose Use consistent with the Plans, as approved by the State Department of Finance:

LRPMP Property #	Address	Property Type	Permissible Use Detail
1	3080-3090 Main Street	Parking lot; Plaza	Maintain public parking lot and plaza as required by existing contracts with adjacent property/business owners.
2	3960 Main Street	Vacant Lot/Land	A portion of the property will ultimately be used for the widening of Main Street. The necessary dedication leaves a remainder too small to support a viable development project.
3	3540 Main Street	Vacant Lot/Land	A portion of the property will be used for the widening of Main Street. The necessary dedication for the road leaves a remainder too small to support a viable development project.
4	3510 Main Street	Vacant Lot/Land	A portion of the property will be used for the widening of Main Street. The necessary dedication for the road leaves a remainder too small to support a viable development project, but could possibly be used to incent development on an adjacent parcel.
5	3350 Main Street	Public Parking Lot/Future Road	The property is presently a public parking lot, but will be part of the roadway as Norcross Ln. extends north.
6	3354 Main Street	Public Parking Lot/Future Road	The property is presently a public parking lot, but will be part of the roadway as Norcross Ln. extends north
14	3667 Main Street	Public Parking Lot	Purchase and Sale Agreement was conditioned on the property being developed into a public parking lot.

ATTACHMENT C

Parcels to be conveyed and be Sold consistent with the Plans, as approved by the State Department of Finance:

LRPMP Property #	Address	Property Type	If a Sale, intended use of sale proceeds	Permissible Use Detail
8	3980 Empire Ave.	Remainder sliver from roadway project	Fulfill an Enforceable Obligation	To be sold to adjacent property owner
9	3201 Main Street	Restaurant building (Black Bear Diner)	Proceeds to Taxing Entities	Distribute to Taxing Entities
13	101 Carol Lane	Reminder land from roadway project	Fulfill an Enforceable Obligation	Sold to adjacent property owner pursuant to the Long Range Management Plan.

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OAKLEY
APPROVING THE MASTER COMPENSATION AGREEMENT
WITH TAXING ENTITIES REGARDING FORMER OAKLEY REDEVELOPMENT
AGENCY PROPERTIES AND AUTHORIZING THE CITY MANAGER
TO EXECUTE THE DOCUMENT**

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves the Master Compensation Agreement with Taxing Entities regarding former Oakley Redevelopment Agency Properties, a true and accurate copy of which is attached as Exhibit A, and authorizes the City Manager to execute the document.

The foregoing resolution was adopted at a regular meeting of the City Council held on the 13th day of September, 2016 by the following vote:

AYES:

NOES:

ABSTENTION:

ABSENT:

APPROVED:

Kevin Romick, Mayor

ATTEST:

Libby Vreonis, City Clerk Date