



## Legislation Text

---

**File #:** 17-031, **Version:** 1

---

*Report Prepared by: Kelly C. Fincher, Chief Deputy City Attorney*

**SUBJECT:** Approval of Retention by the City and Parking Authority of Certain Governmental Use Properties Owned by the Former Redevelopment Agency of the City of Merced

### REPORT IN BRIEF

Approves Retention by the City and Parking Authority of Certain Governmental Use Properties Owned by the Former Redevelopment Agency of the City of Merced

### RECOMMENDATION

Adopt the following motions:

#### City Council:

A. Adopting **Resolution 2017-04**, a Resolution of the City Council of the City of Merced authorizing the retention by the City of certain Governmental use properties owned by the former Redevelopment Agency of the City of Merced and previously conveyed to the City which:

1. Determines that the Governmental Use Properties identified in Part 1 of Exhibit A to be retained by the City meet the criteria for assets that were constructed and used for a governmental purpose, as described in CRL Section 34181(a)(1), authorizes the retention by the City of the Governmental Use Properties identified in Part 1 of Exhibit A to be retained by the City, and submits the supporting documentation to the Oversight Board for consideration and approval.

#### Parking Authority:

A. Adopting **Resolution PA 2017-02**, a Resolution of the City of Merced Parking Authority authorizing the retention by the Parking Authority of certain Governmental use properties owned by the former Redevelopment Agency of the City of Merced and previously conveyed to the Parking Authority which:

1. Determines that the Governmental Use Properties identified in Part 2 of Exhibit A to be retained by the Parking Authority meet the criteria for assets that were constructed and used for a governmental purpose, namely parking facilities and lots dedicated solely to public parking, as described in CRL Section 34181(a)(1) and (2), authorizes the retention by the Parking Authority of the Governmental Use Properties identified in Part 2 of Exhibit A to be retained by the Parking Authority, and submits the supporting documentation to the Oversight Board for consideration and approval.

### AUTHORITY

Municipal Code section 200.

## **CITY COUNCIL PRIORITIES**

Not Applicable.

## **DISCUSSION**

In accordance with the provisions of the California Community Redevelopment Law (Health and Safety Code Section 3300 et seq.) ("CRL"), the City Council of the City of Merced ("City") previously established the Redevelopment Agency of the City of Merced, a public body, corporate and politic ("Redevelopment Agency") to carry out the purposes of and exercise the powers granted to community redevelopment agencies in accordance with the CRL.

Assembly Bill 1X 26, enacted in June 2011, and as modified by the Supreme Court of the State of California in *California Redevelopment Association, et al. v. Ana Matosantos, et al.*, Case No. S194861, and further modified by Assembly Bill 1484, enacted in June 2012, and other subsequent legislation (collectively, the "Dissolution Act") dissolved all redevelopment agencies on February 1, 2012, and set out procedures for their wind-down.

Successor agencies were established under CRL Section 34173 as successor entities for the non-housing functions and assets of the former redevelopment agencies. Pursuant to CRL Section 34173(d)(1), a city or other entity that formed the redevelopment agency could elect not to serve as a successor agency. Accordingly, the City Council took official action declining to become the former Redevelopment Agency's successor agency. As a result of that action, the City of Merced Designated Local Authority ("DLA") was formed pursuant to CRL Section 34173(d)(3)(A) and assumed the former Redevelopment Agency's non-housing functions and obligations.

The former Redevelopment Agency acquired various properties for redevelopment purposes, including those properties identified on the attached Exhibit A ("Governmental Use Properties"). Prior to its dissolution, the Redevelopment Agency, pursuant to the authority granted in Resolution No. RDA 698, adopted on January 31, 2011, conveyed the Governmental Use Properties to the City of Merced Public Financing and Economic Development Authority ("PFEDA") in March 2011. The PFEDA accepted such conveyances pursuant to the authority contained in Resolution No. PFA 2011-4, adopted on January 31, 2011. The Governmental Use Properties identified in Exhibit A were subsequently transferred by PFEDA to the City and the Parking Authority in April 2012.

CRL Section 34179.5 required the DLA, as the successor agency, to undergo specified due diligence reviews (each a "DDR") of the assets and accounts of the former Redevelopment Agency, one of which examined all non-housing assets transferred from the former Redevelopment Agency to the City or any other entities ("Other Funds DDR"). The Other Funds DDR was submitted to DOF for review in accordance with CRL Section 34179.6(c).

CRL Section 34167.5 required the State Controller's Office ("SCO") to undertake a review of all asset transfers which occurred after January 1, 2011, from the former Redevelopment Agency to the City or any other public agency. The SCO issued a final Asset Transfer Report in July 2015 which acknowledged the unallowable transfer of certain non-housing assets to PFEDA and subsequent transfers to the City, indicating that those assets must be returned to the successor agency, and further noting that some of those assets may be subject to the provisions of CRL Section 34181(a).

CRL Section 34179.9 provides, in part, that the City “shall return to the successor agency all assets transferred to the city ... ordered returned pursuant to Section 34167.5.”

As part of the Dissolution Act, an oversight board (“Oversight Board”) was formed for the DLA in accordance with CRL Section 34179, to oversee the actions of the DLA. CRL Section 34181(a)(1) provides that the Oversight Board shall direct the DLA, as the successor agency, to dispose of all assets and properties of the former Redevelopment Agency; provided, however, that the Oversight Board may instead direct the DLA to transfer ownership of those assets that were constructed and used for a governmental purpose, such as roads, parks, and parking facilities and lots dedicated solely to public parking, to the appropriate public jurisdiction. CRL Section 34181(a)(2) clarifies that “parking facilities and lots dedicated solely to public parking” do not include properties that generate revenues in excess of reasonable maintenance costs of the properties.

CRL Section 34181(f) provides that all actions taken pursuant to Section 34181(a) shall be approved by resolution of the Oversight Board at a public meeting after at least 10 days’ notice to the public, and such actions shall be subject to review by DOF pursuant to CRL Section 34179.

City staff has assembled supporting documentation to demonstrate that the Governmental Use Properties identified in Exhibit A meet the criteria for assets that were constructed and used for a governmental purpose, such as roads, parks, and parking facilities and lots dedicated solely to public parking, under Section 34181(a). This supporting documentation is contained in Exhibit B, attached hereto. Based on the information contained in Exhibit B, staff requests (1) the City Council adopt a resolution to (i) determine that the Governmental Use Properties listed in Part 1 of Exhibit A to be retained by the City meet the criteria for assets that were constructed and used for a governmental purpose, as described in CRL Section 34181(a)(1), (ii) authorize the retention by the City of those Governmental Use Property listed in Part 1 of Exhibit A to be retained by the City, and (iii) submit the supporting documentation contained in Exhibit B to the Oversight Board for consideration and approval; and (2) the Parking Authority adopt a resolution to (i) determine that the Governmental Use Properties listed in Part 2 of Exhibit A to be retained by the Parking Authority meet the criteria for assets that were constructed and used for a governmental purpose, as described in CRL Section 34181(a)(1) and (2), (ii) authorize the retention by the Parking Authority of those Governmental Use Properties listed in Part 2 of Exhibit A to be retained by the Parking Authority, and (iii) submit the supporting documentation contained in Exhibit B to the Oversight Board for consideration and approval.

## **IMPACT ON CITY RESOURCES**

Not Applicable.

## **ATTACHMENTS**

1. Resolution 2017-04
2. Resolution PA 2017-02
3. Exhibit A: List of Governmental Use Properties.
4. Exhibits B 1-12: Supporting Documentation