


APPROVED AS TO FORM AND LEGALITY:

BY:   
DEPUTY CITY ATTORNEY

## OAKLAND CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_ C.M.S.

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AN ORDINANCE ADOPTING THE SEVENTEENTH AMENDMENT TO THE CENTRAL DISTRICT URBAN RENEWAL PLAN TO (1) EXTEND THE TIME LIMITS ON PLAN EFFECTIVENESS AND THE RECEIPT OF TAX INCREMENT REVENUES BY TEN YEARS, (2) INCREASE THE CAP ON TAX INCREMENT REVENUES, (3) EXTEND THE TIME LIMIT FOR USE OF EMINENT DOMAIN AND RESTRICT EMINENT DOMAIN TO NONRESIDENTIAL PROPERTIES, (4) AMEND AFFORDABLE HOUSING PROVISIONS, AND (5) MAKE OTHER REQUIRED CHANGES

**WHEREAS**, the City Council adopted the Central District Urban Renewal Plan (the "Redevelopment Plan") on June 12, 1969, Ordinance No. 7987 C.M.S., pursuant to the California Community Redevelopment Law (the "CRL," codified at Section 33000, et seq., of the California Health and Safety Code) as the redevelopment plan for the Central District Redevelopment Project Area (the "Central District" or "Project Area"); and

**WHEREAS**, the Redevelopment Plan has been amended 16 times since adoption; and

**WHEREAS**, on December 21, 2004, the City Council adopted Ordinance No. 12641 C.M.S., which amended the Redevelopment Plan to extend the time limit on the effectiveness of the Redevelopment Plan as to the Project Area (excluding area added to the Project Area by the Twelfth Amendment to the Redevelopment Plan adopted in 2001) to June 12, 2012, and extend the time limit on the Agency's ability to pay indebtedness and receive tax increment revenues as to the Project Area (excluding area added to the Project Area by the Twelfth Amendment to the Redevelopment Plan adopted in 2001), to June 12, 2022; and

**WHEREAS**, pursuant to Section 33333.4(a)(1) of the CRL, the City Council adopted Ordinance No. 10822 C.M.S. on December 16, 1986, which among other things set the limit on the number of dollars that may be divided and allocated to the Redevelopment Agency of the City of Oakland pursuant to the Central District Redevelopment Plan at \$1,348,862,000 (the "tax increment cap"); and

**WHEREAS**, the Redevelopment Plan also sets a limit on the number of dollars that may be divided and allocated to the Redevelopment Agency from areas added to the Central District between 1979 and 2001 at \$75,000,000; and

**WHEREAS**, pursuant to Section 33333.4(a)(3) of the CRL, the City Council adopted Ordinance No. 12348 C.M.S. on July 24, 2001, which among other things set time limits on the commencement of eminent domain proceedings to acquire property in the Central District at June 12, 2009, for territory in the Central District prior to June 1, 2001, and 12 years after adoption of the plan extension amendment for territory added to the Central District after June 1, 2001; and

**WHEREAS**, Sections 33333.10 and 33333.11 of the CRL authorize a redevelopment agency to amend a redevelopment plan adopted prior to December 31, 1993, to extend the time limits on the effectiveness of the plan and the agency's ability to pay indebtedness and receive tax increment revenues by ten additional years, if certain findings are made and certain procedures are followed; and

**WHEREAS**, Sections 33451.5 and 33354.6 of the CRL authorize a redevelopment agency to amend a redevelopment plan to increase the number of dollars that may be divided and allocated to the agency pursuant to a redevelopment plan, if certain findings are made and certain procedures are followed; and

**WHEREAS**, Section 33333.4(a)(3) of the CRL authorizes a redevelopment agency to amend a redevelopment plan to extend the time limit for the commencement of eminent domain proceedings, if certain findings are made; and

**WHEREAS**, the Redevelopment Agency of the City of Oakland has prepared, approved and submitted to the City Council a proposed Seventeenth Amendment to the Central District Redevelopment Urban Renewal Plan (the "Seventeenth Amendment" or the "Amendment"), which would: (1) extend the time limit on the effectiveness of the Redevelopment Plan (excluding the area added to the Central District in 2001) by ten years to June 12, 2022, pursuant to Section 33333.10(a)(1) of the CRL, (2) extend the time limit on the payment of indebtedness and the receipt of tax increment revenues pursuant to the Redevelopment Plan (excluding the area added to the Central District in 2001) by ten years to June 12, 2032, pursuant to Section 33333.10(a)(2) of the CRL, (3) increase the tax increment cap to a maximum of \$3 billion, pursuant to Sections 33451.5 and 33354.6 of the CRL, (4) extend the time limit for the commencement of eminent domain proceedings within the Central District (including the area added to the Central District in 2001) to the extended Plan effectiveness date, pursuant to Section 33333.4(a)(3) of the CRL, as well as restrict

eminent domain authority only to the acquisition of nonresidential properties, (5) amend affordable housing provisions as required under Sections 33333.10 and 33333.11 of the CRL, and (6) make other changes as required by the CRL in connection with the above amendments; and

**WHEREAS**, pursuant to the California Environmental Quality Act (Public Resources Code Section 21000, et seq., hereinafter "CEQA"), the Guidelines for Implementation of the California Environmental Quality Act (14 Cal. Code Regs. Section 15000, et seq., hereinafter the "State CEQA Guidelines") and local procedures adopted by the Agency pursuant thereto, the City has completed an environmental impact report on the proposed Seventeenth Amendment dated June 2011, (the "EIR"); and

**WHEREAS**, the EIR was completed in compliance with CEQA and the City's CEQA implementing regulations, it reflects the City Council's independent judgment, and it has been reviewed and considered before approving the Amendment; and

**WHEREAS**, the Planning Commission has submitted to the Council its report and recommendations for approval of the Amendment; and

**WHEREAS**, the California Department of Finance and Department of Housing and Community Development have been sent reports on the proposed Amendment and have been given an opportunity to comment on the proposed Amendment; and

**WHEREAS**, the California Department of Housing and Community Development has confirmed in writing on June 22, 2011, that the Redevelopment Agency has not accumulated an excess surplus in its Low and Moderate Income Housing Fund; and

**WHEREAS**, residents and community organizations in the Central District have been given an opportunity to review and comment on reports on the proposed Amendment; and

**WHEREAS**, the City Council has also received from the Redevelopment Agency a Report of the Agency on the Seventeenth Amendment to the Central District Plan (the "Report to Council") pursuant to Sections 33333.11(h), 33451.5(c), and 33352 of the CRL, including: a map of the Central District that identifies those portions of the Project Area that are no longer blighted and those portions of the Project Area that are blighted or contain necessary and essential parcel for the elimination of the remaining blight; a description of the remaining blight; a description of the projects and programs proposed to eliminate the remaining blight and a description of how these projects and programs will improve the conditions of blight; the reasons why the projects and programs cannot be completed without the time extensions and other amendments, and the relationship between the costs of those programs and project and the amount of the increase in the tax increment cap; the proposed method of financing those programs and projects; an amendment to the Agency's implementation plan for the Central District

Redevelopment Project; a neighborhood impact report; a description of each bond sold by the Agency to finance or refinance the Central District Redevelopment Project; the report and recommendations of the Planning Commission on the Amendment; the EIR; a summary of consultations with affected taxing entities and the California Department of Finance and Department of Housing and Community Development, and consultations with and community participation by residents, community organizations and others in the Central District on the Amendment, along with responses to written objections and concerns; and

**WHEREAS**, the Council and the Agency held a joint public hearing on September 20, 2011, on adoption of the proposed Amendment; and

**WHEREAS**, a notice of said hearing was duly and regularly published in a newspaper of general circulation in the City of Oakland, once a week for four successive weeks prior to the date of said hearing; and

**WHEREAS**, copies of the notice of joint public hearing were mailed by first-class mail to property owners, residents, and businesses in the Central District; and

**WHEREAS**, copies of the notice of joint public hearing were mailed by certified mail with return receipt requested to the governing body of each taxing agency which receives taxes from property in the Central District; and

**WHEREAS**, the Council has considered the report and recommendations of the Planning Commission, the Report to the Council from the Agency on the Amendment, and the EIR, has provided an opportunity for all persons to be heard, and has received and considered all evidence and testimony presented for or against any and all aspects of the Amendment;

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**Section 1.** The Council hereby finds and determines that:

- a.** Significant blight remains in the Central District. This finding is based upon the following conditions remaining in the Central District, as set forth and documented in the Report to Council:
  - (1) The existence of buildings in which it is unsafe or unhealthy for persons to live or work. These conditions include, dilapidated and deteriorated commercial, residential and industrial buildings, buildings with serious building code violations, abandoned buildings, lead paint and asbestos hazards, defective design or physical construction such as unreinforced masonry buildings and other seismically vulnerable buildings, faulty and inadequate water and sewer utilities, and other similar factors.

- (2) The existence of factors that prevent or substantially hinder the economically viable use or capacity of buildings or lots, including obsolete building design and elements, impeded circulation and accessibility, and other similar factors.
- (3) Depreciated or stagnant property values for industrial and residential properties.
- (4) Impaired property values due in significant part to contamination with hazardous materials.
- (5) Abnormally high business vacancies, abnormally low lease rates, and abandoned buildings.
- (6) An overconcentration of problem businesses such as liquor outlets that has resulted in significant health and safety concerns.
- (7) A high crime rate that constitutes a significant threat to the public safety and welfare.
- (8) The existence of inadequate public improvements, including poor street conditions, inadequate streetscapes, deficient sewer utilities, inadequate park and public facilities, inadequate pedestrian access, and inadequate street lighting.

**b.** The remaining blight conditions in the Central District cannot be eliminated without (1) the extension of the effectiveness of the Redevelopment Plan and the receipt of tax increment revenues by ten years, (2) the extension of the authority to use eminent domain to acquire property in the Central District during the effectiveness of the Redevelopment Plan, and (3) the establishment of additional debt and the increase in the limitation on the number of dollars to be allocated to the Agency from the Central District. These findings are based upon the information, reasoning and analysis contained in the Report to Council.

**Section 2.** The Council hereby further finds and determines that:

- a.** This Amendment to the Redevelopment Plan is both necessary and desirable, for the reasons set forth above and in the Report to Council.
- b.** The remaining blight conditions are causing and will increasingly cause a reduction and lack of proper utilization of the Central District to such an extent that it constitutes a serious physical, social and economic burden on the City, which cannot reasonably be expected to be reversed or alleviated by private enterprise acting alone, requiring redevelopment in the interest of

the health, safety and general welfare of the people of the City and the State. This finding is based on the fact that governmental action available to the City without redevelopment would be insufficient to cause any significant correction of the blighting conditions, and that the nature and costs of the public improvements and facilities required to correct the blighting conditions are beyond the capacity of the City and cannot be undertaken or borne by private enterprise acting alone or in concert with available governmental action, as set forth and analyzed in the Report to Council.

- c. The Redevelopment Plan as amended and extended herein will redevelop the Central District in conformity with the Community Redevelopment Law and in the interests of the public peace, health, safety and welfare. This finding is based upon the fact that redevelopment of the Central District will implement the objectives of the Community Redevelopment Law by aiding in the elimination and correction of the conditions of blight, providing for planning, development, redesign, clearance, reconstruction or rehabilitation of properties which need improvement and providing for higher economic utilization of potentially useful land.
- d. The carrying out of the Redevelopment Plan as amended and extended herein is economically sound and feasible. This finding is based on the fact that the Agency will be authorized to seek and utilize a variety of potential financing resources, including tax increment revenues; that the nature and timing of public redevelopment assistance will depend on the amount and availability of such financing resources, including tax increment revenues generated by new investment in the Central District; and that under the Redevelopment Plan no public redevelopment activity will be undertaken unless the Agency can demonstrate that it has adequate revenue to finance the activity.
- e. The Redevelopment Plan as amended and extended herein conforms to the General Plan of the City of Oakland. This finding is based on the fact that the Redevelopment Plan specifically requires and provides for redevelopment in conformance with the General Plan of the City of Oakland.
- f. The carrying out of the Redevelopment Plan as amended and extended herein will promote the public peace, health, safety and welfare of the City of Oakland and will effectuate the purposes and policy of the Community Redevelopment Law. This finding is based on the fact that redevelopment will benefit the Central District by correcting conditions of blight and by coordinating public and private actions to stimulate development of the Central District.
- g. The condemnation of real property as provided for in the Redevelopment Plan as amended and extended herein is necessary to the execution of the Redevelopment Plan, and adequate provisions have been made for the

payment for property to be acquired as provided by law. This finding is based upon the need to ensure that the provisions of the Redevelopment Plan as amended will be carried out and to prevent the recurrence of blight, and the fact that the Redevelopment Plan provides for payments for property acquired through condemnation as required by law.

- h. The Agency has a feasible method and plan for the relocation of families and persons who might be displaced, temporarily or permanently, from housing facilities in the Central District. This finding is based on the fact that the Redevelopment Plan as well as relocation rules adopted by the Agency require and provide for relocation assistance and benefits for displacees according to law.
- i. There are, or are being provided, within the Central District or within other areas not generally less desirable with regard to public utilities and public and commercial facilities and at rents or prices within the financial means of the families and persons who might be displaced from the Central District, decent, safe and sanitary dwellings equal in number to the number of and available to such displaced families and persons and reasonably accessible to their places of employment. This finding is based upon the fact that under relocation laws and regulations adopted by the Agency, no person or family will be required to move from any dwelling unit until suitable replacement housing is available.
- j. Permanent housing facilities will be available within three years from the time occupants of the Central District are displaced, if any, and that pending the development of the facilities, there will be available to the displaced occupants, if any, adequate temporary housing facilities at rents comparable to those in the City of Oakland at the time of their displacement.
- k. The elimination of blight and the redevelopment of the Central District could not reasonably be expected to be accomplished by private enterprise acting alone without the aid and assistance of the Agency. This finding is based upon the existence of blighting influences, including the lack of adequate public improvements and facilities, and the inability of individual developers to economically remove these blighting influences without substantial public assistance in providing adequate public improvements and facilities, the inability of low- and moderate-income persons to finance needed improvements, and the inadequacy of other governmental programs and financing mechanisms to eliminate blight, including the provision of necessary public improvements and facilities, as analyzed in the Report to Council.
- l. The time limitations and the limit on the number of dollars to be allocated to the Agency contained in the Redevelopment Plan as amended and extended herein are reasonably related to the proposed projects and

programs to be implemented in the Central District and to the ability of the Agency to eliminate blight in the Central District. This finding is based on the program and projects for the Redevelopment Plan as extended and the fiscal analysis as set forth and analyzed in the Report to Council.

- m.** The Redevelopment Plan as amended and extended herein contains adequate safeguards so that the work of redevelopment will be carried out pursuant to the Redevelopment Plan, and it provides for the retention of controls and the establishment of restrictions and covenants running with the land sold or leased for private use for periods of time and under conditions specified in the Redevelopment Plan, which this Council deems necessary to effectuate the purposes of the Community Redevelopment Law.

**Section 3.** The Council is satisfied that all written objections received before or at the noticed public hearing, if any, have been responded to in writing. In addition, written findings have been adopted in response to each written objection of an affected property owner or taxing entity which has been filed with the City Clerk either before or at the noticed public hearing, and all objections are hereby overruled.

**Section 4.** The City Council hereby amends the ordinance adopting the Central District Redevelopment Urban Renewal Plan and adopts the following Seventeenth Amendment to the Central District Redevelopment Urban Renewal Plan:

- a.** Section 402 of the Redevelopment Plan for the Central District Urban Renewal Project is amended to read in its entirety as follows (deletions are indicated with strikeout text, and additions with double underlining):

**Section 402. ACQUISITION AND CLEARANCE**

The Agency may acquire real properties within the Central District Urban Renewal Area whenever such acquisition is, in the sole discretion of the Agency, determined to be necessary in order:

1. to remove a substandard condition inconsistent with the Redevelopment Plan which cannot otherwise be removed through rehabilitation, or
2. to remove a blighting influence on surrounding properties which prevents achievement of the objectives of the Redevelopment Plan, or
3. to provide land for public improvements or facilities, or
4. to promote historical or architectural preservation, or



5. to assemble a disposition parcel of adequate size, shape and location for redevelopment, and the achievement of other Plan objectives, or
6. to otherwise execute the Redevelopment Plan in conformity with the Community Redevelopment Law of California.

Within the Central District, except as otherwise limited under this section, the Agency may acquire real properties by purchase, gift, exchange, condemnation or any lawful manner, except that the Agency is not authorized to employ the power of eminent domain to acquire property in the Central District on which persons legally reside.

The Agency's authority to acquire property in the Central District by eminent domain shall expire on the date that this Plan is no longer effective as set forth in the first paragraph of Section 700.E. of this Plan June 12, 2009, except as provided below. No eminent domain complaint to acquire property in the Central District may be filed after this date, ~~except as provided below.~~

~~Notwithstanding any provision of this Plan to the contrary, as to any areas added to the Project Area by amendment of this Plan adopted after June 1, 2001, the Agency may acquire, but is not required to acquire, any real property located in said additional areas by any means authorized by law, including eminent domain, except that in those additional areas the Agency is not authorized to employ the power of eminent domain to acquire property on which persons legally reside. Eminent domain proceedings for said additional areas, if used, must be commenced within twelve (12) years from the date the ordinance adopting the amendment to this Plan becomes effective.~~

**b.** Subsection C of Section 600 of the Redevelopment Plan for the Central District Urban Renewal Project is amended to read in its entirety as follows (deletions are indicated with strikeout text, and additions with double underlining):

C. Local Property Tax Increment: With the consent of the Oakland City Council, taxes, if any, levied upon the taxable property in the Project Area, hereinafter sometimes called the "redevelopment project," each year by or for the benefit of the State of California, the City of Oakland, County of Alameda, any district or other public corporation (hereinafter sometimes called "taxing agencies"), after the effective date of the ordinance approving this Plan shall be divided as provided in Article 6, Chapter 6, Part I (the Community Redevelopment Law) of the Health

and Safety Code of the State of California and Section 16 of Article XVI of the Constitution of the State of California, to wit:

1. that portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of said taxing agencies upon the total sum of the assessed value of the taxable property in the redevelopment project as shown upon the assessment roll used in connection with the taxation of such property by such taxing agency last equalized prior to the effective date of such ordinance shall be allocated to, and when collected, shall be paid into the funds of the respective taxing agencies as taxes by or for said taxing agencies on all other property are paid (for the purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment project on the effective date of such ordinance but to which such territory has been annexed or otherwise included after such effective date, the assessment roll of the county last equalized on the effective date of said ordinance shall be used in determining the assessed valuation of the taxable property in the project on said effective date); and
2. that portion of said levied taxes each year in excess of such amount shall be allocated to and, when collected, shall be paid into a special fund of the Agency to pay the principal of and interest on loans, monies advanced to, or indebtedness (whether funded, refunded, assumed or otherwise) incurred by such agency to finance or refinance, in whole or in part, such redevelopment project. Unless and until the total assessed valuation of the taxable property in a redevelopment project exceeds the total assessed value of the taxable property in such project as shown by the last equalized assessment roll referred to in paragraph designated (1) hereof, all of the taxes levied collected upon the taxable property in such redevelopment project shall be paid into the funds of the respective taxing agencies. When said loans, advances and indebtedness, if any, and interest thereon, have been paid then all monies thereafter received from taxes upon the taxable property in such redevelopment project shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

In the proceedings for the advance of monies, making of loans or the incurring of any indebtedness (whether funded, refunded, assumed or otherwise) by the Agency to finance or refinance, in whole or in part, the Central District Urban Renewal Project, the portion of taxes set forth in said Law and said Constitution as available to the Agency for

such purposes may be irrevocably pledged for the payment of the principal of and interest on such loans, advances or indebtedness.

The number of dollars of the taxes referred to in Health and Safety Code Section 33670 which may be divided and allocated to the Redevelopment Agency of the City of Oakland pursuant to the Plan shall not exceed ~~One Billion, Three Hundred Forty Eight Million, Eight Hundred and Sixty Two Thousand Dollars (\$1,348,862,000.00)~~ Three Billion Dollars (\$3,000,000,000).

The Agency shall not pay indebtedness or receive property taxes pursuant to Section 33670 from the Project Area after June 12, 2022 2032, except as may otherwise be provided by Section 33333.6 of the Community Redevelopment Law or except as provided below for areas added to the Project Area by Plan amendment.

~~As to tax increment generated within that portion of the Project Area added to the plan boundaries after June 12 1979, but prior to June 1, 2001, no more than \$75 million may be divided and allocated to the Agency without further amendment of this Plan.~~

As to bonds issued by the Agency specifically for activities to be undertaken in that portion of the Project Area added to the Plan boundaries after June 12, 1979, but prior to June 1, 2001, the amount of bonded indebtedness outstanding at any one time shall not exceed \$100,000,000.

Notwithstanding any provision of this Plan to the contrary, as to that territory added to the Project Area by the Twelfth Amendment to this Plan adopted on July 24, 2001 (that territory is referred to in this Plan as the "Central District Twelfth Amendment Area"), the Agency shall not establish or incur loans, advances or indebtedness to finance in whole or in part the Plan within the Central District Twelfth Amendment Area after July 24, 2021, except that the Agency may incur loans, advances or indebtedness after July 24, 2021 to be paid from the Low and Moderate Income Housing Fund as defined by the Community Redevelopment Law or to meet the Agency's replacement housing or inclusionary housing requirements as set forth in Sections 33413 and 33413.5 of the Community Redevelopment Law, as said provisions apply to the Central District Twelfth Amendment Area. This limit shall not prevent the Agency from refinancing, refunding, or restructuring indebtedness after the time limit if the indebtedness is not increased and the time during which the indebtedness is to be repaid is not extended beyond the time limit to repay indebtedness required by Section 33333.2 of the Community Redevelopment Law.

As to the Central District Twelfth Amendment Area, the Agency will comply with the requirements of Section 33607.5 of the Community Redevelopment Law to make certain payments to affected taxing entities from tax increment revenues generated by the Central District Twelfth Amendment Area.

Notwithstanding any provision of this Plan to the contrary, as to the Central District Twelfth Amendment Area, the Agency shall not pay indebtedness or receive property taxes pursuant to Section 33670 from the Central District Twelfth Amendment Area after July 24, 2047.

The Agency may in any year during which it owns property in the Project Area pay directly to any city, county, district, including, but not limited to, a school district, or other public corporation for whose benefit a tax would have been levied upon such property had it not been exempt, an amount of money in lieu of taxes, if and to the extent such payments are authorized under the California Community Redevelopment Law.

The Agency may pay to any taxing agency with territory located within the Project Area any amounts of money which in the Agency's determination is appropriate to alleviate any financial burden or detriment caused to the taxing agency by the redevelopment project, if and to the extent such payments are authorized under the California Community Redevelopment Law.

Beginning in fiscal year 2004-2005 until the date the effectiveness of this Plan terminates, the Agency will comply with the requirements of Section 33607.7 of the Community Redevelopment Law, as triggered by the amendment to this Plan adopted on January 6, 2004, to eliminate the time limit on establishing debt, to make certain payments to affected taxing entities from tax increment revenues generated by the Central District Project Area (excluding the Central District Twelfth Amendment Area). These payments shall be calculated against the amount of assessed value by which the current year assessed value exceeds the adjusted base year value for fiscal year 2003-2004 for the Project Area (excluding the Central District Twelfth Amendment Area).

Beginning on June 12, 2022, the Agency shall spend tax increment funds (except for funds deposited into the Low and Moderate Income Housing Fund) only within the portion of the Central District Project Area that has been identified in the Report to Council on the Seventeenth Amendment to this Plan as the area containing blighted parcels and necessary and essential parcels.

- c. Subsection E of Section 700 of the Central District Urban Renewal Plan is hereby amended to read in its entirety as follows (deletions are indicated with strikeout text, and additions with double underlining):

- E. Duration of Plan: The provisions of this Plan shall be filed as restrictive covenants running with land sold or leased by the Agency and shall be made part of each contract with the Agency for new development or for owner participation. The commencement date of the covenants shall be the date of approval of the Plan by the Oakland City Council. The provisions of this Plan shall be effective, and the provisions of other documents formulated pursuant to this Plan may be made effective, until June 12, 2012 2022, except that the nondiscrimination and nonsegregation provisions shall run in perpetuity, and except as provided below for areas added to the Project Area by Plan amendment. After this time limit on the duration and effectiveness of the Plan, the Agency shall have no authority to act pursuant to this Plan for the Project Area except to pay previously incurred indebtedness and to enforce existing covenants or contracts, except as may be otherwise be provided by Section 33333.6 of the Community Redevelopment Law, and except as provided below for areas added to the Project Area by Plan amendment.

As to the Central District Twelfth Amendment Area, the provisions of this Plan shall be effective, and the provisions of other documents formulated pursuant to this Plan may be made effective, for the Central District Twelfth Amendment Area until July 24, 2032, except that the nondiscrimination and nonsegregation provisions shall run in perpetuity. After this time limit on the duration and effectiveness of the Plan for the Central District Twelfth Amendment Area, the Agency shall have no authority to act pursuant to this Plan for the Central District Twelfth Amendment Area except to pay previously incurred indebtedness and to enforce existing covenants or contracts, and except that, if the Agency has not completed its housing obligations pursuant to Section 33413 of the Community Redevelopment Law, it shall retain its authority to implement its requirements under Section 33413, including its ability to incur and pay indebtedness for this purpose, and shall use this authority to complete these housing obligations as soon as reasonably possible.

- d. Subsection G of Section 700 of the Central District Urban Renewal Plan is hereby amended to read in its entirety as follows (deletions are indicated with strikeout text, and additions with double underlining):

- G. Replacement Housing and Inclusionary Affordable Housing Requirements: By law, the Agency, within four years of destruction

or removal of dwelling units housing persons and families of low and moderate income as part of the redevelopment project, shall cause to be rehabilitated, developed or constructed a number of dwelling units equal to the number destroyed or removed which units shall be for sale to persons and families of low and moderate income at affordable housing costs.

In addition, ~~as to any areas added to the Project Area by amendment of this Plan adopted after January 1, 1976, prior to the time limit on the effectiveness of this Plan as set forth in Section 700.E.,~~ at least 30 percent of all new or substantially rehabilitated dwelling units developed by the Agency in the ~~additional areas~~ Central District shall be available at affordable housing cost to, and occupied by, persons and families of low or moderate income, with not less than 50 percent of these units made available at affordable housing cost to, and occupied by, very low income households, as required by Section 33413 (in particular, subdivision (b) of that section) of the Community Redevelopment Law. Prior to the time limit on the effectiveness of this Plan as set forth in Section 700.E., at least 15 percent of all new or substantially rehabilitated dwelling units developed by public or private entities or persons other than the Agency in the ~~additional areas~~ Central District shall be available at affordable housing cost to, and occupied by, persons and families of low or moderate income, with not less than 40 percent of these units made available at affordable housing cost to, and occupied by, very low income households, as required by Section 33413 (in particular, subdivision (b) of that section) of the Community Redevelopment Law. The requirements of this section shall apply in the aggregate, and not to each individual case of rehabilitation, development, or construction of dwelling units; however, the Agency in its discretion may impose inclusionary housing requirements on particular housing projects developed by public or private entities or persons other than the Agency in the ~~additional areas~~ Central District, as needed in order for the Agency to comply with Section 33413 of the Community Redevelopment Law, this Plan, and the implementation plan adopted for the Project pursuant to Section 33490 of the Community Redevelopment Law. This paragraph shall only apply prospectively to new and substantially rehabilitated dwelling units for which the building permits are issued on or after the date of adoption of the Seventeenth Amendment to this Plan. To satisfy this paragraph, in whole or in part, the Agency (1) may cause, by regulation or agreement, to be available, at affordable housing cost to, and occupied by, persons and families of low or moderate income or to very low income households, as applicable, two units outside the Central District for each unit that otherwise would have been

required to be available inside the Central District, or (2) may aggregate new or substantially rehabilitated dwelling units in one or more project areas, if the Agency finds, based on substantial evidence, after a public hearing, that the aggregation will not cause or exacerbate racial, ethnic, or economic segregation.

Beginning in fiscal year 2012-2013, and except as otherwise provided in or allowed by the Community Redevelopment Law, not less than 30 percent of all taxes which are allocated to the Agency pursuant to Section 33670 of the Community Redevelopment Law from that portion of the Central District existing within the project area prior to December 31, 1993, shall be used by the Agency for the purposes of increasing, improving and preserving the City's supply of housing at affordable housing cost to persons and families of extremely low, very low, low or moderate income. For those portions of the Central District added to the project area after December 31, 1993, including the Twelfth Amendment Area, the Agency shall continue to allocate not less than 25 percent of tax increment revenues from these areas for these purposes, per CRL requirements and Agency policy. In carrying out this purpose, the Agency may exercise any or all of its powers. The funds for this purpose shall be deposited and held in the Agency's Low and Moderate Income Housing Fund. Beginning in fiscal year 2012-2013 until June 12, 2022, the Agency may use such funds to increase, improve, or preserve housing for persons and families of moderate income, but only subject to the limitations on such assistance as set forth in Section 33333.10(f)(2) of the Community Redevelopment Law. Beginning on June 12, 2022, the Agency may use such funds to increase, improve, or preserve housing for persons and families of moderate income, but only subject to the limitations on such assistance as set forth in Section 33333.10(f)(1) of the Community Redevelopment Law.

**Section 5.** The City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency, whereupon the Agency is vested with the responsibility for carrying out the Plan as amended.

**Section 6.** The City Administrator or his designee is hereby directed to record with the County Recorder of Alameda County a statement that the Redevelopment Plan has been amended.

**Section 7.** If any part of this Ordinance or the Amendment which it approves is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance or of the Amendment, and this Council hereby declares that it would have passed the remainder of this Ordinance and approved the remainder of the Amendment if such invalid portion thereof had been deleted.

**Section 8.** This Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2011

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL,  
SCHAAF, AND PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California



**AN ORDINANCE ADOPTING THE SEVENTEENTH AMENDMENT TO THE CENTRAL DISTRICT URBAN RENEWAL PLAN TO (1) EXTEND THE TIME LIMITS ON PLAN EFFECTIVENESS AND THE RECEIPT OF TAX INCREMENT REVENUES BY TEN YEARS, (2) INCREASE THE CAP ON TAX INCREMENT REVENUES, (3) EXTEND THE TIME LIMIT FOR USE OF EMINENT DOMAIN AND RESTRICT EMINENT DOMAIN TO NONRESIDENTIAL PROPERTIES, (4) AMEND AFFORDABLE HOUSING PROVISIONS, AND (5) MAKE OTHER REQUIRED CHANGES**

### **NOTICE AND DIGEST**

This Ordinance amends the Central District Urban Renewal Plan to (1) extend the time limit on the effectiveness of the Plan by ten years to June 12, 2022, (2) extend the time limit on the payment of indebtedness and the receipt of tax increment revenues pursuant to the Redevelopment Plan by ten years to June 12, 2032, (3) increase the cap on the amount of tax increment revenue that the Redevelopment Agency may receive to a maximum of \$3 billion, (4) extend the time limit for the commencement of eminent domain proceedings within the Central District to the extended Plan effectiveness date, as well as restrict eminent domain only to the acquisition of nonresidential properties, (5) amend various affordable housing provisions as required under the California Community Redevelopment Law, and (6) make other changes as required by the California Community Redevelopment Law in connection with the above amendments. This Ordinance also makes certain findings in support of its adoption.

**OAKLAND CITY COUNCIL****ORDINANCE NO. \_\_\_\_\_ C.M.S.**

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**AN ORDINANCE ADOPTING THE EIGHTEENTH  
AMENDMENT TO THE CENTRAL DISTRICT URBAN  
RENEWAL PLAN TO EXTEND THE TIME LIMITS ON PLAN  
EFFECTIVENESS AND THE RECEIPT OF TAX INCREMENT  
REVENUES BY ONE YEAR**

**WHEREAS**, the City Council adopted the Central District Urban Renewal Plan (the "Redevelopment Plan") on June 12, 1969, Ordinance No. 7987 C.M.S., pursuant to the California Community Redevelopment Law (the "CRL," codified at Section 33000, et seq., of the California Health and Safety Code) as the redevelopment plan for the Central District Redevelopment Project Area (the "Central District" or "Project Area"); and

**WHEREAS**, the Redevelopment Plan has been amended 17 times since adoption; and

**WHEREAS**, the City Council adopted the Twelfth Amendment to the Redevelopment Plan in 2001, which added territory to the Project Area and set the time limit on the effectiveness of the Redevelopment Plan as to this added territory at July 24, 2032, and the time limit on the Agency's ability to pay indebtedness and receive tax increment revenues as to this added territory at July 24, 2047; and

**WHEREAS**, the City Council adopted the Seventeenth Amendment to the Redevelopment Plan in 2011, which extended the time limit on the effectiveness of the Redevelopment Plan as to the Project Area (excluding area added to the Project Area by the Twelfth Amendment) to June 12, 2022, and extended the time limit on the Agency's ability to pay indebtedness and receive tax increment revenues as to the Project Area (excluding area added to the Project Area by the Twelfth Amendment), to June 12, 2032; and

**WHEREAS**, Health and Safety Code Section 33331.5 authorizes the legislative body to amend a redevelopment plan to extend the time limits on plan effectiveness and the agency's ability to pay indebtedness and receive tax increment revenues by one year when the agency is required to make a payment to the Supplemental Educational Revenue Augmentation Fund ("SERAF") under Health and Safety Code Section 33690 and has allocated the full amount to such payment; and

**WHEREAS**, the Redevelopment Agency is required to make a payment to the SERAF under Health and Safety Code Section 33690 and has allocated the full amount to such payment; and

**WHEREAS**, pursuant to the California Environmental Quality Act (Public Resources Code Section 21000, et seq., hereinafter "CEQA"), the Guidelines for Implementation of the California Environmental Quality Act (14 Cal. Code Regs. Section 15000, et seq., hereinafter the "State CEQA Guidelines") and local procedures adopted by the Agency pursuant thereto, the City has completed an environmental impact report on the proposed Eighteenth Amendment dated June 2011, (the "EIR"); and

**WHEREAS**, the EIR was completed in compliance with CEQA and the City's CEQA implementing regulations, it reflects the City Council's independent judgment, and it has been reviewed and considered before approving the Amendment; and

**WHEREAS**, the City Council wishes to amend the Central District Urban Renewal Plan to extend the time limits applicable to the Central District Project Area by one year per Health and Safety Code Section 33331.5; now, therefore,

The Council of the City of Oakland does ordain as follows:

**Section 1.** The City Council hereby amends the ordinance adopting the Central District Redevelopment Urban Renewal Plan and adopts the following Eighteenth Amendment to the Central District Redevelopment Urban Renewal Plan:

**a.** Subsection C of Section 600 of the Redevelopment Plan for the Central District Urban Renewal Project is amended to read in its entirety as follows (deletions are indicated with strikeout text, and additions with double underlining):

**C. Local Property Tax Increment:** With the consent of the Oakland City Council, taxes, if any, levied upon the taxable property in the Project Area, hereinafter sometimes called the "redevelopment project," each year by or for the benefit of the State of California, the City of Oakland, County of Alameda, any district or other public corporation (hereinafter sometimes called "taxing agencies"), after the effective date of the ordinance approving this Plan shall be divided as provided in Article 6, Chapter 6, Part I (the Community Redevelopment Law) of the Health and Safety Code of the State of California and Section 16 of Article XVI of the Constitution of the State of California, to wit:

1. that portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of said taxing agencies upon the total sum of the assessed value of the

taxable property in the redevelopment project as shown upon the assessment roll used in connection with the taxation of such property by such taxing agency last equalized prior to the effective date of such ordinance shall be allocated to, and when collected, shall be paid into the funds of the respective taxing agencies as taxes by or for said taxing agencies on all other property are paid (for the purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment project on the effective date of such ordinance but to which such territory has been annexed or otherwise included after such effective date, the assessment roll of the county last equalized on the effective date of said ordinance shall be used in determining the assessed valuation of the taxable property in the project on said effective date); and

2. that portion of said levied taxes each year in excess of such amount shall be allocated to and, when collected, shall be paid into a special fund of the Agency to pay the principal of and interest on loans, monies advanced to, or indebtedness (whether funded, refunded, assumed or otherwise) incurred by such agency to finance or refinance, in whole or in part, such redevelopment project. Unless and until the total assessed valuation of the taxable property in a redevelopment project exceeds the total assessed value of the taxable property in such project as shown by the last equalized assessment roll referred to in paragraph designated (1) hereof, all of the taxes levied collected upon the taxable property in such redevelopment project shall be paid into the funds of the respective taxing agencies. When said loans, advances and indebtedness, if any, and interest thereon, have been paid then all monies thereafter received from taxes upon the taxable property in such redevelopment project shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

In the proceedings for the advance of monies, making of loans or the incurring of any indebtedness (whether funded, refunded, assumed or otherwise) by the Agency to finance or refinance, in whole or in part, the Central District Urban Renewal Project, the portion of taxes set forth in said Law and said Constitution as available to the Agency for such purposes may be irrevocably pledged for the payment of the principal of and interest on such loans, advances or indebtedness.

The number of dollars of the taxes referred to in Health and Safety Code Section 33670 which may be divided and allocated to the

Redevelopment Agency of the City of Oakland pursuant to the Plan shall not exceed Three Billion Dollars (\$3,000,000,000).

The Agency shall not pay indebtedness or receive property taxes pursuant to Section 33670 from the Project Area after June 12, 2032 2033, except as may otherwise be provided by Section 33333.6 of the Community Redevelopment Law or except as provided below for areas added to the Project Area by Plan amendment.

As to bonds issued by the Agency specifically for activities to be undertaken in that portion of the Project Area added to the Plan boundaries after June 12, 1979, but prior to June 1, 2001, the amount of bonded indebtedness outstanding at any one time shall not exceed \$100,000,000.

Notwithstanding any provision of this Plan to the contrary, as to that territory added to the Project Area by the Twelfth Amendment to this Plan adopted on July 24, 2001 (that territory is referred to in this Plan as the "Central District Twelfth Amendment Area"), the Agency shall not establish or incur loans, advances or indebtedness to finance in whole or in part the Plan within the Central District Twelfth Amendment Area after July 24, 2021, except that the Agency may incur loans, advances or indebtedness after July 24, 2021 to be paid from the Low and Moderate Income Housing Fund as defined by the Community Redevelopment Law or to meet the Agency's replacement housing or inclusionary housing requirements as set forth in Sections 33413 and 33413.5 of the Community Redevelopment Law, as said provisions apply to the Central District Twelfth Amendment Area. This limit shall not prevent the Agency from refinancing, refunding, or restructuring indebtedness after the time limit if the indebtedness is not increased and the time during which the indebtedness is to be repaid is not extended beyond the time limit to repay indebtedness required by Section 33333.2 of the Community Redevelopment Law.

As to the Central District Twelfth Amendment Area, the Agency will comply with the requirements of Section 33607.5 of the Community Redevelopment Law to make certain payments to affected taxing entities from tax increment revenues generated by the Central District Twelfth Amendment Area.

Notwithstanding any provision of this Plan to the contrary, as to the Central District Twelfth Amendment Area, the Agency shall not pay indebtedness or receive property taxes pursuant to Section 33670 from the Central District Twelfth Amendment Area after July 24, 2047 2048.

The Agency may in any year during which it owns property in the Project Area pay directly to any city, county, district, including, but not limited to, a school district, or other public corporation for whose benefit a tax would have been levied upon such property had it not been exempt, an amount of money in lieu of taxes, if and to the extent such payments are authorized under the California Community Redevelopment Law.

The Agency may pay to any taxing agency with territory located within the Project Area any amounts of money which in the Agency's determination is appropriate to alleviate any financial burden or detriment caused to the taxing agency by the redevelopment project, if and to the extent such payments are authorized under the California Community Redevelopment Law.

Beginning in fiscal year 2004-2005 until the date the effectiveness of this Plan terminates, the Agency will comply with the requirements of Section 33607.7 of the Community Redevelopment Law, as triggered by the amendment to this Plan adopted on January 6, 2004, to eliminate the time limit on establishing debt, to make certain payments to affected taxing entities from tax increment revenues generated by the Central District Project Area (excluding the Central District Twelfth Amendment Area). These payments shall be calculated against the amount of assessed value by which the current year assessed value exceeds the adjusted base year value for fiscal year 2003-2004 for the Project Area (excluding the Central District Twelfth Amendment Area).

Beginning on June 12, 2022, the Agency shall spend tax increment funds (except for funds deposited into the Low and Moderate Income Housing Fund) only within the portion of the Central District Project Area that has been identified in the Report to Council on the Seventeenth Amendment to this Plan as the area containing blighted parcels and necessary and essential parcels.

- b.** Subsection E of Section 700 of the Central District Urban Renewal Plan is hereby amended to read in its entirety as follows (deletions are indicated with strikeout text, and additions with double underlining):

- E. Duration of Plan: The provisions of this Plan shall be filed as restrictive covenants running with land sold or leased by the Agency and shall be made part of each contract with the Agency for new development or for owner participation. The commencement date of the covenants shall be the date of approval of the Plan by the Oakland City Council. The provisions of this Plan shall be effective, and the provisions of other documents formulated pursuant to this Plan may be made effective, until June 12, 2022 2023, except that

the nondiscrimination and nonsegregation provisions shall run in perpetuity, and except as provided below for areas added to the Project Area by Plan amendment. After this time limit on the duration and effectiveness of the Plan, the Agency shall have no authority to act pursuant to this Plan for the Project Area except to pay previously incurred indebtedness and to enforce existing covenants or contracts, except as may be otherwise be provided by Section 33333.6 of the Community Redevelopment Law, and except as provided below for areas added to the Project Area by Plan amendment.

As to the Central District Twelfth Amendment Area, the provisions of this Plan shall be effective, and the provisions of other documents formulated pursuant to this Plan may be made effective, for the Central District Twelfth Amendment Area until July 24, ~~2032-2033~~, except that the nondiscrimination and nonsegregation provisions shall run in perpetuity. After this time limit on the duration and effectiveness of the Plan for the Central District Twelfth Amendment Area, the Agency shall have no authority to act pursuant to this Plan for the Central District Twelfth Amendment Area except to pay previously incurred indebtedness and to enforce existing covenants or contracts, and except that, if the Agency has not completed its housing obligations pursuant to Section 33413 of the Community Redevelopment Law, it shall retain its authority to implement its requirements under Section 33413, including its ability to incur and pay indebtedness for this purpose, and shall use this authority to complete these housing obligations as soon as reasonably possible.

**Section 2.** The City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency, whereupon the Agency is vested with the responsibility for carrying out the Plan as amended.

**Section 3.** The City Administrator or his designee is hereby directed to record with the County Recorder of Alameda County a statement that the Redevelopment Plan has been amended.

**Section 4.** If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and this Council hereby declares that it would have passed the remainder of this Ordinance if such invalid portion thereof had been deleted.

**Section 5.** This Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter, if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2011

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL,  
SCHAAF, AND PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California

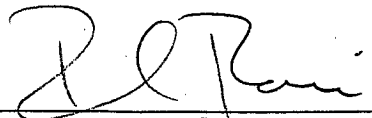


**AN ORDINANCE ADOPTING THE EIGHTEENTH  
AMENDMENT TO THE CENTRAL DISTRICT URBAN  
RENEWAL PLAN TO EXTEND THE TIME LIMITS ON  
PLAN EFFECTIVENESS AND THE RECEIPT OF TAX  
INCREMENT REVENUES BY ONE YEAR**

**NOTICE AND DIGEST**

This ordinance amends the Central District Urban Renewal Plan to extend the time limits in the Plan for Plan effectiveness and the ability of the Redevelopment Agency to pay indebtedness and receive tax increment revenues, as authorized under Health and Safety Code Section 33331.5, by one year.

APPROVED AS TO FORM AND LEGALITY:

BY:   
DEPUTY CITY ATTORNEY

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**A RESOLUTION CERTIFYING AND MAKING FINDINGS AS  
TO THE FINAL ENVIRONMENTAL IMPACT REPORT ON  
PROPOSED AMENDMENTS TO THE CENTRAL DISTRICT  
URBAN RENEWAL PLAN, AND ADOPTING MITIGATION  
MEASURES AND A MITIGATION MONITORING AND  
REPORTING PROGRAM**

**WHEREAS**, an Environmental Impact Report (the "EIR") on proposed 17<sup>th</sup> and 18<sup>th</sup> Amendments to the Central District Urban Renewal Plan (the "Redevelopment Plan") was prepared by the City pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq., hereinafter "CEQA"), the Guidelines for Implementation of the California Environmental Quality Act (14 Cal. Code Regs. Section 15000 et seq., hereinafter the "State CEQA Guidelines"), and the City's Environmental Review Regulations adopted pursuant thereto; and

**WHEREAS**, copies of the Draft EIR were distributed to the State Clearinghouse and to those public agencies which have jurisdiction by law with respect to the Project and to other interested persons and agencies, and the comments of such persons and agencies were sought; and

**WHEREAS**, the Draft EIR was thereafter revised and supplemented to adopt changes suggested and to incorporate comments received and the City's response to said comments, and as so revised and supplemented, a Final EIR was prepared and submitted to the City Council for review and consideration in conjunction with consideration of approval and adoption of the proposed amendments to the Redevelopment Plan; and

**WHEREAS**, the Planning Commission has certified and made findings as to the Final EIR; and

**WHEREAS**, a joint public hearing was held by the Redevelopment Agency of the City of Oakland (the "Agency") and the Council on September 20, 2011, on the proposed

amendments to the Redevelopment Plan and the Final EIR relating thereto, following notice duly and regularly given as required by law, and all interested persons expressing a desire to comment thereon or object thereto having been heard, and said Final EIR and all comments and responses thereto having been considered; and

**WHEREAS,** the Final EIR consists of the Draft EIR, as revised and supplemented, made a part of the Agency's Report to Council on the Redevelopment Plan amendments, incorporating all comments received and the response of the Agency and the City thereto as of the date hereof; now, therefore, be it

**RESOLVED:** That the City Council hereby certifies that the Final EIR for the proposed 17<sup>th</sup> and 18<sup>th</sup> Amendments to the Central District Urban Renewal Plan has been completed in compliance with CEQA, the State CEQA Guidelines and the City's Environmental Review Regulations; and be it further

**RESOLVED:** That the City Council hereby finds that the Final EIR reflects the independent judgment of the City, as required by Public Resources Code Section 21082.1; and be it further

**RESOLVED:** That the City Council has independently reviewed and analyzed the Final EIR and considered the information contained therein and all comments, written and oral, received at the public hearing on the Final EIR prior to approving this resolution and acting on the proposed amendments; and be it further

**RESOLVED:** That the City Council hereby adopts the CEQA Findings and the Statement of Overriding Considerations attached as Exhibit A, which are incorporated herein by reference; and be it further.

**RESOLVED:** That upon approval and adoption of the proposed amendments to the Redevelopment Plan by the City Council, the City Clerk is hereby directed to file a Notice of Determination with the County Clerk of Alameda County and the Office of Planning and Research pursuant to the provisions of Section 15094 of the State CEQA Guidelines.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2011

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL,  
SCHAAF, AND PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California

## **EXHIBIT A**

### **CENTRAL DISTRICT URBAN RENEWAL PLAN 17<sup>TH</sup> AND 18<sup>TH</sup> AMENDMENTS CEQA FINDINGS**

#### **I. INTRODUCTION**

1. These findings are made pursuant to the California Environmental Quality Act (Pub. Res. Code section 21000 et seq; "CEQA") and the CEQA Guidelines (Cal. Code Regs. title 14, section 15000 et seq.) by the City of Oakland Planning Commission in connection with the EIR prepared for proposed amendments to the Central District Urban Renewal Plan Project ("the Project"), SCH #2010102024.
2. These CEQA findings are attached and incorporated by reference into each and every staff report, resolution and ordinance associated with approval of the Project.
3. These findings are based on substantial evidence in the entire administrative record and references to specific reports and specific pages of documents are not intended to identify those sources as the exclusive basis for the findings.

#### **II. PROJECT DESCRIPTION**

4. The Project, which is the subject of the EIR, consists of two amendments ("Proposed Amendments") to the Central District Urban Renewal Plan. The proposed 17th Amendment would amend the Plan in three ways. First, it would extend the duration of the Redevelopment Plan from 2012 to 2022 and extend the time period that the Redevelopment Agency can receive tax increment funds from 2022 to 2032, as allowed by Senate Bill 211 (codified at Health and Safety Code Section 33333.10 et seq.). Second, it would increase the cap on the receipt of tax increment revenue to account for the proposed time extensions, as the Redevelopment Agency is anticipated to exceed its existing cap if the time extension is adopted. Third, it would renew the Redevelopment Agency's authority to use eminent domain in the Project Area. The proposed 18<sup>th</sup> Amendment would further amend the Plan to extend the duration of the Redevelopment Plan and the time period that the Redevelopment Agency can receive tax increment funds by an additional one year.

The Project Area covers approximately 250 city blocks (828 acres) generally bounded by I-980, Lake Merritt, 27th Street and the Embarcadero [See attached Map on page 2 of the Planning Commission staff report]. Within the Project Area, there are four major redevelopment activity areas: City Center, Chinatown, Victorian Row/Old Oakland and the Uptown Retail area.

### III. ENVIRONMENTAL REVIEW OF THE PROJECT

5. Pursuant to CEQA and the CEQA Guidelines, a Notice of Preparation (NOP) of a Draft EIR (DEIR) was published on October 14, 2010. An Initial Study was not prepared for the Project, as permitted by Section 15060(d) of the CEQA Guidelines. The NOP was distributed to state and local agencies, and posted at 15 locations around the Central District. On, November 3, 2010 the Planning Commission conducted a duly noticed EIR scoping session concerning the scope of the EIR, and a further scoping session was held at the November 8, 2010 meeting of the Landmarks Preservation Advisory Board. The public comment period on the NOP ended on November 15, 2010.
6. A DEIR was prepared for the Project to analyze its environmental impacts. The Notice of Availability/Notice of Release of the DEIR was distributed to appropriate state and local agencies, posted at 15 locations around the Central District, and mailed to individuals who have requested to specifically be notified of official City actions on the project. Copies of the DEIR were also distributed to appropriate state and local agencies, City officials including the Planning Commission, and made available for public review at the office of the Community and Economic Development Agency (250 Frank H. Ogawa Plaza, Suite 3315) and on the City's website. The DEIR was properly circulated for a 45-day public review period on August 23, 2010. A duly noticed Public Hearing on the DEIR was held at the April 6, 2011 meeting of the Planning Commission and the April 11, 2011 meeting of the Landmarks Preservation Advisory Board.
7. The City received written and oral comments on the DEIR. The City prepared responses to comments on environmental issues and made changes to the DEIR. The responses to comments, changes to the DEIR, and additional information were published in a Response to Comments and Final EIR (RTC/EIR) on June 17, 2011. The DEIR, the RTC/EIR and all appendices thereto constitute the "EIR" referenced in these findings. The RTC/EIR was made available for public review on June 17, 2011, nineteen days prior to the duly noticed July 6, 2011 public hearing. The Notice of Availability/Notice of Release of the FEIR was distributed to those state and local agencies who commented on the DEIR, and posted at 15 locations in the Central District. Copies of the DEIR and RTC/EIR were also distributed to those state and local agencies who commented on the DEIR, City officials including the Planning Commission, and made available for public review at the office of the Community and Economic Development Agency (250 Frank H. Ogawa Plaza, Suite 3315), and on the City's website. Pursuant to CEQA Guidelines, responses to public agency comments have been published and made available to all commenting agencies at least 10 days prior to hearing. The Planning Commission has had an opportunity to review all comments and responses thereto prior to consideration of certification of the EIR and prior to taking any action on the proposed project.

### IV. THE ADMINISTRATIVE RECORD

8. The record, upon which all findings and determinations related to the approval of the Project are based, includes the following:

- a. The EIR and all documents referenced in or relied upon by the EIR.
  - b. All information (including written evidence and testimony) provided by City staff to the Planning Commission relating to the EIR, the approvals, and the Project.
  - c. All information (including written evidence and testimony) presented to the Planning Commission by the environmental consultant and subconsultants who prepared the EIR or incorporated into reports presented to the Planning Commission.
  - d. All information (including written evidence and testimony) presented to the City from other public agencies relating to the Project or the EIR.
  - e. All final applications, letters, testimony and presentations presented by the project sponsor and its consultants to the City in connection with the Project.
  - f. All final information (including written evidence and testimony) presented at any City public hearing or City workshop related to the Project and the EIR.
  - g. For documentary and information purposes, all City-adopted land use plans and ordinances, including without limitation general plans, specific plans and ordinances, together with environmental review documents, findings, mitigation monitoring programs and other documentation relevant to planned growth in the area.
  - h. The Standard Conditions of Approval for the Project and Mitigation Monitoring and Reporting Program for the Project (SCAMMRP).
  - i. All other documents composing the record pursuant to Public Resources Code section 21167.6(e).
9. The custodian of the documents and other materials that constitute the record of the proceedings upon which the City's decisions are based is the Director of City Planning, Community and Economic Development Agency, or his/her designee. Such documents and other materials are located at 250 Frank H. Ogawa Plaza, Suite 3315, Oakland, California, 94612.

## **V. CERTIFICATION OF THE EIR**

10. In accordance with CEQA, the City Council, acting as the Lead Agency under CEQA, certifies that the EIR has been completed in compliance with CEQA. The City Council has independently reviewed the record and the EIR prior to certifying the EIR and approving the Project. By these findings, the City Council confirms, ratifies, and adopts the findings and conclusions of the EIR as supplemented and modified by these findings. The EIR and these findings represent the independent judgment and analysis of the City Council.

11. The City Council recognizes that the EIR may contain clerical errors. The City Council reviewed the entirety of the EIR and bases its determination on the substance of the information it contains.
12. The City Council certifies that the EIR is adequate to support all actions in connection with the approval of the Project and all other actions and recommendations as described in the Report to Council. The City Council certifies that the EIR is adequate to support approval of the Project described in the EIR, each component and phase of the Project described in the EIR, any variant of the Project described in the EIR, any minor modifications to the Project or variants described in the EIR and the components of the Project.

## **VI. ABSENCE OF SIGNIFICANT NEW INFORMATION**

13. The City Council recognizes that the FEIR incorporates information obtained and produced after the DEIR was completed, and that the FEIR contains additions, clarifications, and modifications. The City Council has reviewed and considered the FEIR and all of this information. The FEIR does not add significant new information to the DEIR that would require recirculation of the EIR under CEQA. The new information added to the EIR does not involve a new significant environmental impact, a substantial increase in the severity of an environmental impact, or a feasible mitigation measure or alternative considerably different from others previously analyzed that the project sponsor declines to adopt and that would clearly lessen the significant environmental impacts of the Project. No information indicates that the DEIR was inadequate or conclusory or that the public was deprived of a meaningful opportunity to review and comment on the DEIR. Thus, recirculation of the EIR is not required.
14. The City Council finds that the changes and modifications made to the EIR after the DEIR was circulated for public review and comment do not individually or collectively constitute significant new information within the meaning of Public Resources Code section 21092.1 or the CEQA Guidelines section 15088.5.

## **VII. STANDARD CONDITIONS OF APPROVAL AND MITIGATION MONITORING AND REPORTING PROGRAM**

15. Public Resources Code section 21081.6 and CEQA Guidelines section 15097 require the City to adopt a monitoring or reporting program to ensure that the mitigation measures and revisions to the Project identified in the EIR are implemented. The Standard Conditions of Approval and Mitigation Monitoring and Reporting Program (SCAMMRP) is attached and incorporated by reference into the July 6, 2011 Planning Commission staff report prepared for the approval of the Project, is included in the conditions of approval for the Project, and is adopted by the City Council. The SCAMMRP satisfies the requirements of CEQA.
16. The standard conditions of approval (SCA) and mitigation measures set forth in the SCAMMRP are specific and enforceable and are capable of being fully implemented by



the efforts of the City of Oakland, the applicant, and/or other identified public agencies of responsibility. As appropriate, some standard conditions of approval and mitigation measures define performance standards to ensure no significant environmental impacts will result. The SCAMMRP adequately describes implementation procedures and monitoring responsibility in order to ensure that the Project complies with the adopted standard conditions of approval and mitigation measures.

17. The City Council will adopt and impose the feasible standard conditions of approval and mitigation measures as set forth in the SCAMMRP as enforceable conditions of approval. The City has adopted measures to substantially lessen or eliminate all significant effects where feasible.
18. The standard conditions of approval and mitigation measures incorporated into and imposed upon the Project approval will not have new significant environmental impacts that were not analyzed in the EIR. In the event a standard condition of approval or mitigation measure recommended in the EIR has been inadvertently omitted from the conditions of approval or the SCAMMRP, that standard condition of approval or mitigation measure is adopted and incorporated from the EIR into the SCAMMRP by reference and adopted as a condition of approval.

#### **VIII. FINDINGS REGARDING IMPACTS**

19. In accordance with Public Resources Code section 21081 and CEQA Guidelines sections 15091, 15092 and 15093, the City Council adopts the findings and conclusions regarding impacts, standard conditions of approval and mitigation measures that are set forth in the EIR and summarized in the SCAMMRP. These findings do not repeat the full discussions of environmental impacts, mitigation measures, standard conditions of approval, and related explanations contained in the EIR. The City Council ratifies, adopts, and incorporates, as though fully set forth, the analysis, explanation, findings, responses to comments and conclusions of the EIR. The City Council adopts the reasoning of the EIR, staff reports, and presentations provided by the staff and the project sponsor as may be modified by these findings.
20. The City Council recognizes that the environmental analysis of the Project raises controversial environmental issues, and that a range of technical and scientific opinion exists with respect to those issues. The City Council acknowledges that there are differing and potentially conflicting expert and other opinions regarding the Project. The City Council has, through review of the evidence and analysis presented in the record, acquired a better understanding of the breadth of this technical and scientific opinion and of the full scope of the environmental issues presented. In turn, this understanding has enabled the City Council to make fully informed, thoroughly considered decisions after taking account of the various viewpoints on these important issues and reviewing the record. These findings are based on a full appraisal of all viewpoints expressed in the EIR and in the record, as well as other relevant information in the record of the proceedings for the Project.

21. As a separate and independent basis from the other CEQA findings, pursuant to CEQA section 21083.3 and Guidelines section 15183, the City Council finds: (a) the project is consistent with Land Use and Transportation Element (LUTE) of the General Plan, for which an EIR was certified in March 1998; (b) feasible mitigation measures identified in the LUTE EIR were adopted and have been, or will be, undertaken; (c) this EIR evaluated impacts peculiar to the project and/or project site, as well as off-site and cumulative impacts; (d) uniformly applied development policies and/or standards (hereafter called "Standard Conditions of Approval") have previously been adopted and found to, that when applied to future projects, substantially mitigate impacts, and to the extent that no such findings were previously made, the City Council hereby finds and determines that the Standard Conditions of Approval (SCA) substantially mitigate environmental impacts (as detailed below); and (e) no substantial new information exists to show that the Standard Conditions of Approval will not substantially mitigate the project and cumulative impacts.

## **IX. POTENTIALLY SIGNIFICANT BUT MITIGABLE IMPACTS**

22. Under Public Resources Code section 21081(a)(1) and CEQA Guidelines sections 15091(a)(1) and 15092(b), and to the extent reflected in the EIR, the SCAMMRP, and the City's Standard Conditions of Approval (SCA), the City Council finds that changes or alterations have been required in, or incorporated into, the components of the Project that mitigate or avoid potentially significant effects on the environment. The following potentially significant impacts will be reduced to a less than significant level through the implementation of Project mitigation measures, or where indicated, through the implementation of Standard Conditions of Approval, referenced in the DEIR (which are an integral part of the SCAMMRP):
23. Aesthetics, Shadow and Wind. AES-3: Development facilitated by the Proposed Amendments would facilitate the creation of new sources of light or glare which could substantially and adversely affect day or nighttime views in the area. Any potential impact of new lighting will be reduced to a less than significant level through implementation of SCA 40, Lighting Plan, which requires approval of plans to adequately shield lighting to a point below the light bulb and reflector to prevent unnecessary glare onto adjacent properties and minimize mirrored or reflective façade surfaces.
24. Air Quality and Green House Gases: Development facilitated by the Proposed Amendments would not fundamentally conflict with the CAP because the plan demonstrates reasonable efforts to implement control measures contained in the CAP. The project could include residential developments that expose occupants to substantial health risk from diesel particulate matter (Air-2, 3). Implementation of Standard Conditions of Approval 25, Parking and Transportation Demand Management, and 95, Air Pollution Buffering for Private Open Space would reduce these impacts to a less-than-significant level in most cases.

25. Biological Resources: Development facilitated by the Proposed Amendments could adversely affect species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service, could have substantial adverse effect on federally protected wetlands, could substantially interfere with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors and native wildlife nursery sites, and could fundamentally conflict with the City of Oakland Tree and Creek Protection Ordinances (Bio-1, 3, 4, 6, 7, 8). Implementation of Standard Conditions of Approval for Hazards Best Management Practices, Tree Removal During Breeding Season, Tree Removal Permit, Tree Replacement Plantings, Tree Protection During Construction, Erosion and Sedimentation Control Plan, Vibrations Adjacent Historic Structures, Stormwater Pollution Prevention Plan (SWPPP), Post-Construction Stormwater Management Plan, and Creek Protection Plan (SCA 35, 44, 45, 46, 47, 55, 57, 75, 80, 83, and A), would reduce these impacts to a less than significant level. Moreover, compliance with various policies, and goals contained in the City's general plans and other regulatory requirements would ensure there would not be significant adverse biological impacts.
26. Cultural Resources: Development facilitated by the Proposed Amendments could result in the physical demolition, destruction, relocation, or alteration of historical resources, could result in significant impacts to both known and unknown archaeological resources, could directly or indirectly destroy a unique paleontological resource or site or unique geologic feature, could disturb human remains and combined with cumulative development in the Project Area and citywide, would contribute considerably to a significant adverse cumulative impact to cultural resources (CUL-1, 2, 3, 4, 5). Through application of Mitigation Measure CUL-1 that addresses any future redevelopment project that would occur on or immediately adjacent to buildings 50 years old or older, and would occur between 2012 and 2023, the City shall require specific surveys and evaluations of such properties to determine their potential historical significance at the federal, state, and local levels. Intensive-level surveys and evaluations shall be completed by a qualified architectural historian who meets the Secretary of the Interior's Standards for architectural history. For all historical resources identified as a result of site-specific surveys and evaluations, the City shall ensure that future redevelopment activities, including demolition, alteration, and new construction, would avoid, adaptively reuse and/or appropriately relocate such historical resources in accordance with measure "a". Additionally, application of Standard Conditions of Approval for Archaeological Resources, Human Remains, Paleontological Resources, Compliance with Policy 3.7 of the Historic Preservation Element (Property Relocation Rather than Demolition), and Vibrations Adjacent Historic Structures (SCA 52, 53, 54, 56, 57), would reduce impacts to a less than significant level. Moreover, compliance with various policies, and goals contained in the City's general plans and other regulatory requirements would ensure there would not be significant adverse cultural resource impacts.
27. Geology and Soils: Development facilitated by the Proposed Amendments could expose people or structures to seismic hazards and could be subjected to geologic hazards

(GEO-1, 2). These impacts will be reduced to a less than significant level through the implementation of Standard Conditions of Approval 58, 59 (Soils Report, Geotechnical Report), which require soils reports and geotechnical investigations and reports to be prepared, best management practices for soil and groundwater hazards. Moreover, compliance with various policies, and goals contained in the City's general plans and other regulatory requirements, including compliance with all applicable building codes, would ensure there would not be significant adverse geology and soils impacts.

28. Greenhouse Gases: Development facilitated by the Proposed Amendments would produce greenhouse gas emissions and would not conflict with any applicable plan, policy or regulation of an appropriate regulatory agency adopted for the purpose of reducing greenhouse gas emissions (GHG-1, 2). Implementation of Standard Conditions of Approval for Required Landscape Plan for New Construction and Certain Additions to Residential Facilities, Landscape Requirements for Street Frontages., Landscape Maintenance., Landscape Requirements for Street Frontages., Landscape Maintenance, Parking and Transportation Demand Management, Dust Control, Construction Emissions, Waste Reduction and Recycling, Asbestos Removal in Structures, Tree Replacement Plantings, Erosion and Sedimentation Control Plan, Stormwater Pollution Prevention Plan (SWPPP), and Creek Protection Plan (SCA 12, 13, 15, 17, 18, 25, 26, 27, 36, 41, 46, 55, 75, 83, B) would reduce the impacts to a less than significant level.
29. Hazards and Hazardous Materials: Development facilitated by the Proposed Amendments would result in an increase in the routine transportation, use, and storage of hazardous chemicals, in the accidental release of hazardous materials used during construction through improper handling or storage, in the exposure of hazardous materials in soil and ground water, in the exposure of hazardous building materials during building demolition, require use of hazardous materials within 0.25 mile of a school, and when combined with other past, present, existing, approved, pending and reasonably foreseeable development in the vicinity, would result in cumulative hazards (HAZ-1 through 6). This impact will be reduced to a less than significant level through implementation of Standard Conditions of Approval for Hazards Best Management Practices, Asbestos Removal in Structures, Site Review by the Fire Services Division, Lead-Based Paint/Coatings, Asbestos, or PCB Occurrence Assessment, Other Materials Classified as Hazardous Waste, Best Management Practices for Soil and Groundwater Hazards, Radon or Vapor Intrusion from Soil or Groundwater Sources, Hazardous Materials Business Plan (SCA 35, 41, 61, 63, 66, 68, 69, 74), which impose best management practices to protect groundwater and soils from new impacts and appropriate handling of existing impacted groundwater and soils, proper removal of asbestos containing materials and soils, and requirements for lead, asbestos, radon, preparation of a health and safety plan, and other vapor intrusion assessment and remediation, as well as Fire Services review and preparation of a Hazardous Materials Business Plan for the project. Moreover, compliance with various policies, and goals contained in the City's general plans and other regulatory requirements would ensure there would not be significant adverse hazards and hazardous materials impacts.

30. Hydrology/Water Quality: Development facilitated by the Proposed Amendments would alter drainage patterns and increase the volume of stormwater, level of contamination or siltation in stormwater flowing from the Project Area could be susceptible to flooding hazards as a result of being placed in a 100-year flood zone as mapped by FEMA (HYD-1 and 2). Implementation of the Standard Conditions of Approval for Erosion and Sedimentation Control Plan, Stormwater Pollution Prevention Plan (SWPPP), Post-Construction Stormwater Management Plan, Maintenance Agreement for Stormwater Treatment Measures, Creek Protection Plan, and Structures within a Floodplain, Stormwater and Sewer (SCA 55, 75, 80, 81, 83, 90, 91), would ensure that project would have a less than significant impact on hydrology and water quality. Moreover, compliance with various policies, and goals contained in the City's general plans and other regulatory requirements would ensure there would not be significant adverse hydrology and water quality impacts.
31. Noise: Development facilitated by the Proposed Amendments would result in substantial temporary or periodic increases in ambient noise levels in the Project Area above levels existing without the Amendment and in excess of standards established in the local general plan or Noise Ordinance and Planning Code, or applicable standards of other agencies, construction pile driving for the Victory Court ballpark could increase ambient noise levels for an extended duration and adversely affect the surrounding noise environment, and operational noise generated by the Victory Court ballpark would generate special event noise level, and in combination with traffic from past, present, existing, approved, pending and reasonably foreseeable future projects and could result in a 5dBA permanent increase in ambient noise levels in the project vicinity above levels existing without development facilitated by the Proposed Amendments (NOI-1, 2, 3, 4, 7). Implementation of Standard Conditions of Approval for Days/Hours of Construction Operation, Noise Control, Noise Complaint Procedures, Interior Noise, Operational Noise-General, Vibration, Pile Driving and Other Extreme Noise Generators (SCA 28, 29, 30, 31, 32, 38, 39) and Mitigation Measures for noise (NOI-4 a and b) and traffic (TRA 1.1 and 4.1) would reduce these impacts to a less than significant level. Moreover, compliance with various policies, and goals contained in the City's general plans and other regulatory requirements would ensure there would not be significant adverse noise impacts.
32. Traffic and Transportation: Development facilitated by the Proposed Amendments would increase traffic volumes on area roadway segments; baseball games and other special events at the Victory Court ballpark would adversely affect the surrounding transportation network; traffic congestion caused by the traffic generated by development facilitated by the Proposed Amendments would substantially increase travel time for AC Transit buses, would increase traffic volumes on area roadway segments, potentially causing conflicts among motor vehicles, bicycles, or pedestrians; may result in additional automobile, bicycle, and/or pedestrian traffic at the existing at-grade railroad crossings and potentially contribute to safety issues along the railroad crossings, generate demand for alternative transportation services, and generate temporary increases in traffic volume and temporary effects on transportation conditions (TRA-1, 2, 3, 4, 5, 7, 8, 10, 11).

Implementation of Standard Conditions of Approval for Improvements in the Public Right-of-Way (General and Specific), Parking and Transportation Demand Management, Construction Traffic and Parking (SCA 20, 21, 25, 33) and Mitigation Measures TRA-1, 1.1, 1.2, 2, 3, 4, 5, and 8 would reduce these impacts to a less than significant level.

33. Utilities/Service Systems: Development facilitated by the Proposed Amendments would not require or result in construction of new stormwater drainage facilities or expansion of existing facilities, would not generate solid waste that would exceed the permitted capacity of the landfills serving the area, but, in combination with other past, present, existing, approved, pending, and reasonably foreseeable future projects within and around the Project Area, would result in an increased demand for utilities services (UTIL-3, 4, 6). These impacts will be reduced to a less than significant level through the implementation of Standard Conditions of Approval for Waste Reduction and Recycling, Stormwater Pollution Prevention Plan (SWPPP), and Post-Construction Stormwater Management Plan, and Stormwater and Sewer (SCA 36, 75, 80, 91). Moreover, compliance with various policies, and goals contained in the City's general plans and other regulatory requirements would ensure there would not be significant adverse utilities/service systems impacts.

## **X. SIGNIFICANT AND UNAVOIDABLE IMPACTS**

34. Under Public Resources Code sections 21081(a)(3) and 21081(b), and CEQA Guidelines sections 15091, 15092, and 15093, and to the extent reflected in the EIR and the SCAMMRP, the City Council finds that the following impacts of the Project remain significant and unavoidable, notwithstanding the imposition of all feasible Standard Conditions of Approval and mitigation measures, as set forth below.

### **AIR QUALITY IMPACTS**

35. **Impact AIR-3**: Development facilitated by the Proposed Amendments could include residential developments that expose occupants to substantial health risk from diesel particulate matter (DPM) from mobile and stationary sources. Although compliance with City's Standard Conditions of Approval would provide that a site specific health risk assessment (HRA) be prepared, and would reduce exposures to DPM sources to less than significant, there is no assurance that exposure to gaseous TACs could be reduced to a less-than-significant level at every site. (Significant)

### **CULTURAL RESOURCES IMPACTS**

36. **Impact CUL-1**: Development facilitated by the Proposed Amendments could result in the physical demolition, destruction, relocation, or alteration of historical resources that are listed in or may be eligible for listing in the federal, state, or local registers of historical resources.
37. **Impact CUL-5**: Development facilitated by the Proposed Amendments, combined with cumulative development in the defined geographic area, including past, present, existing,

approved, pending, and reasonably foreseeable future development, would contribute considerably to a significant adverse cumulative impacts to cultural resources.

## NOISE IMPACTS

38. **Impact NOI -2:** Construction pile driving for the Victory Court ballpark that could be facilitated by the Proposed Amendments could increase ambient noise levels for an extended duration and adversely affect the surrounding noise environment.
39. **Impact NOI-4:** Operational noise generated by the Victory Court ballpark that could be facilitated by the Proposed Amendments would generate special event noise levels in the Project Area to levels in excess of standards established in the Oakland Noise Ordinance and Planning Code.
40. **Impact NOI-7:** Noise generated by the Victory Court ballpark that could be facilitated by the Proposed Amendments, in combination with traffic from past, present, existing, approved, pending and reasonably foreseeable future projects, could result in a 5dBA permanent increase in ambient noise levels in the project vicinity above levels existing without development facilitated by the Proposed Amendments; and could substantially increase construction noise and operational noise in the Project Area.

## TRANSPORTATION AND CIRCULATION IMPACTS

41. **Impact TRA-1:** Development facilitated by the Proposed Amendments would increase traffic volumes on area roadway segments under Existing Plus Project conditions.
42. **Impact TRA-2:** Development facilitated by the Proposed Amendments would increase traffic volumes on area roadway segments under Cumulative Year 2015 Baseline Plus Project conditions.
43. **Impact TRA-3:** Development facilitated by the Proposed Amendments would increase traffic volumes on area roadway segments under Cumulative Year 2035 Baseline Plus Project conditions.
44. **Impact TRA-4:** Baseball games and other special events at the Victory Court ballpark would adversely affect the surrounding transportation network.
45. **Impact TRA-5:** Traffic congestion caused by the traffic generated by development facilitated by the Proposed Amendments would substantially increase travel time for AC Transit buses.
46. **Impact TRA-8:** Development facilitated by the Proposed Amendments may result in additional automobile, bicycle, and/or pedestrian traffic at the existing at-grade railroad crossings and potentially contribute to safety issues along the railroad crossings.

## XI. FINDINGS REGARDING ALTERNATIVES

47. The City Council finds that specific economic, social, environmental, technological, legal or other considerations make infeasible the alternatives to the Project as described in the EIR despite remaining impacts, as more fully set forth in the Statement of Overriding Considerations below.
48. The EIR evaluated a reasonable range of alternatives to the project that was described in the DEIR. The four potentially feasible alternatives analyzed in the EIR represent a reasonable range of potentially feasible alternatives that reduce one or more significant impacts of the Project. These alternatives include: the No Project Alternative, the Reduced Growth Alternative, the Aggressive Growth Alternative, and the Other Victory Court Alternative. As presented in the EIR, the alternatives were described and compared with each other and with the proposed project. The Reduced Growth Alternative is identified as the CEQA-required environmentally superior alternative.
49. The City Council certifies that it has independently reviewed and considered the information on alternatives provided in the EIR and in the record. The EIR reflects the City Council's independent judgment as to alternatives. The City Council finds that the Project provides the best balance between the project sponsor's objectives, the City's goals and objectives, and the Project's benefits as described in the Staff Report and in the Statement of Overriding Considerations below. While the Project does predict some significant and unavoidable environmental impacts, the EIR and City's SCAs mitigate these impacts to the extent feasible. The four alternatives proposed and evaluated in the EIR are rejected for the following reasons. Each individual reason presented below constitutes a separate and independent basis to reject the project alternative as being infeasible, and, when the reasons are viewed collectively, provide an overall basis for rejecting the alternative as being infeasible.
50. **No Project Alternative:** Under this alternative, the Proposed Amendments to the Redevelopment Plan (the Project) would not be adopted, therefore the development and programs described for the Project would not occur. However, the No Project Alternative does include development that could occur even without the Project. This includes certain already approved but not built residential developments in the Broadway/Valdez area (Broadway/West Grand and 2300 Broadway), a smaller entertainment/retail development at 1800 San Pablo compared to what would occur at that location with the Project, and other potential development on City Center parcels (T-5/6 and T-12) and at 1100 Broadway.
51. **Reduced Growth Alternative:** Under this alternative, the development and programs described for the Project would occur, except that the Broadway/Valdez Triangle development and the Victory Court-associated development would be developed at a reduced intensity (approximately 50 percent less floor area and fewer residential units
52. **Aggressive Growth Alternative:** Under this alternative, the development and programs described for the Project would occur, and an additional 15 percent of affordable housing



units, which would receive funding as a result of the Proposed Amendments to the Redevelopment Plan, are assumed.

53. **Other Victory Court Use Alternative:** Under this alternative, the Victory Court area would be developed with other land uses instead of the 39,000-seat ballpark and associated development, as described for the Project.

## **XII. STATEMENT OF OVERRIDING CONSIDERATIONS**

54. The City Council finds that each of the following specific economic, legal, social, technological, environmental, and other considerations and the benefits of the Project separately and independently outweigh these remaining significant, adverse impacts and is an overriding consideration independently warranting approval. The remaining significant adverse impacts identified above are acceptable in light of each of these overriding considerations that follow. Each individual benefit/reason presented below constitutes a separate and independent basis to override each and every significant unavoidable environmental impact, and, when the benefits/reasons are viewed collectively, provide an overall basis to override each and every significant unavoidable environmental impact.

### **The Proposed Amendments Would Foster Growth and Revitalization in the Central District Redevelopment Project Area**

55. The Proposed Amendments would enable continuation of projects, programs, investments, and other activities of the Redevelopment Agency that would eliminate blight remaining in the Project Area and facilitate downtown revitalization and growth. The Proposed Amendments would directly facilitate the following development in the Project Area:
- a) Major retail development as desired for the Valdez Triangle area of the Broadway/Valdez District. New comparison goods shopping downtown would increase shopping opportunities in Oakland and stem the leakage of retail spending to other areas.
  - b) A new baseball park with surrounding commercial and residential development. The development would provide a viable option for retaining the A's in Oakland, and would strengthen the downtown's role for entertainment and mixed-use development.
  - c) Additional entertainment/retail development in the Uptown district.
  - d) Additional low- and moderate-income housing to expand housing choices in the Project Area.
56. These developments would support Project Area growth of business activity with 4,240 additional jobs and growth of 2,090 households with 3,530 additional residents. This growth would not otherwise occur in downtown Oakland without the Proposed Amendments. The facilitation of these developments would be beneficial as they satisfy

several of the goals and objectives of the Central District Redevelopment Plan and the Oakland General Plan.

57. Compared to growth anticipated citywide, the Proposed Amendments would contribute about four percent of the employment growth and about three percent of the population growth anticipated by the ABAG projections, 2010-2035. Without the Proposed Amendments and the redevelopment activities and funding that they would enable, future growth in Oakland is likely to be below the ABAG projections by those percentages

**A) THE PROPOSED AMENDMENTS ARE UNLIKELY TO INDUCE  
SUBSTANTIAL ADDITIONAL GROWTH OUTSIDE THE PROJECT AREA**

**(1)**

**(2) NO INFRASTRUCTURE-INDUCED GROWTH**

58. Typical examples of projects likely to have significant growth-inducing impacts include extensions or expansions of infrastructure systems beyond what is needed to serve project-specific demand, and the development of new residential subdivisions or industrial parks in areas that are currently only sparsely developed or are undeveloped. In this case, the Proposed Amendments would facilitate redevelopment of already developed areas in a central, downtown/CBD location well-served by existing transportation/transit systems and other infrastructure and utilities. Unlike development on vacant land in an outlying part of the region, the development facilitated by the Proposed Amendments would occur in an already developed urban area and would not require construction or extension of new roads, utilities, and other infrastructure that might stimulate population and employment growth in previously undeveloped areas.

**(3) LIMITED SUPPORT FOR NEW HOUSING GROWTH ELSEWHERE IN  
OAKLAND**

59. The Proposed Amendments would result in affordable housing development. Under California redevelopment law, 15 percent of total new housing units built in the Project Area during the extension period must be affordable to households of low- or moderate-income. In addition, with the Proposed Amendments, the Agency also would be required to allocate 30 percent of gross tax increment revenues from the Project Area to affordable housing (the housing "set-aside"). However, it is likely that most of the housing set-aside during the extension period could be required to provide financial assistance for meeting the Agency's 15 percent affordable housing production obligation in the Project Area. If some of the housing set-aside were available for other affordable housing beyond the 15 percent obligation in the Project Area, such funds could be used for additional affordable housing either inside or outside the Project Area. Thus, it is possible that some additional affordable housing could be built elsewhere in Oakland as a result of the Proposed Amendment. If so, the additional affordable housing could be built in residential areas and locations identified for housing in the City's General Plan Land Use and Housing Elements.

**(4) JOB-INDUCED POPULATION GROWTH LIKELY TO BE ACCOMMODATED BY ANTICIPATED CUMULATIVE GROWTH**

60. Employment growth in development facilitated by the Proposed Amendments would support the growth of households and population to provide additional workers. The housing development facilitated by the Proposed Amendments, however, would accommodate additional workers, equivalent to about 50 to 60 percent of the additional jobs. Cumulatively, city growth of housing and employed residents in Oakland is projected to exceed the growth of jobs over time (thereby improving the relationship of jobs and housing in Oakland). Thus, cumulatively, the substantial growth of housing and population already anticipated to occur throughout the city could accommodate the number of additional workers due to the Proposed Amendments as well as the number of additional workers associated with other cumulative job growth. Housing in downtown and the Project Area will represent a large share of the housing to be built in Oakland in the future, and would support the growth of business activities and jobs in the Project Area.

**(5) GROWTH SUPPORTED BY ADDITIONAL SPENDING UNLIKELY TO RESULT IN CONSTRUCTION OF ADDITIONAL NEW FACILITIES**

61. The major retail and ballpark/mixed-use developments and the entertainment/retail development to be facilitated by the Proposed Amendments would bring visitors, patrons, and shoppers to the Project Area. Their spending would support the businesses and employment to be located in the new developments. There also could be some additional spending, such as for eating and drinking, that would support existing and potential new businesses in nearby parts of the Project Area and downtown. The additional spending is unlikely to result in the construction of new facilities, however, given the large amount of retail and commercial space to be developed as a result of the Proposed Amendments, and the availability of commercial space in existing buildings downtown.

**(6) SHIFTS OF SOME EXISTING COMMERCIAL AND INDUSTRIAL ACTIVITY TO OTHER AREAS**

62. Development in the Project Area that is facilitated by the Proposed Amendments is anticipated to require the demolition of some existing commercial and industrial buildings/facilities. The loss of existing space would result in some shifts of existing business activity to other areas of Oakland, and increased occupancy of commercial and industrial space in those areas. There are commercial corridors and industrial areas in Oakland that contain vacant and underutilized facilities and sites that would benefit from increased market interest and shifts in demand from other areas. The magnitude of shifts would not be large in the context of business activity citywide, and would not be expected to lead to construction of new facilities in most cases.

63. The loss of space in the Valdez Triangle area could shift auto dealership activity to the north along Broadway and/or to locations along I-880 in the vicinity of the Coliseum. It could shift auto service and other commercial activities to the west toward Telegraph

Avenue, as well as to parts of downtown, North Oakland, and West Oakland. The loss of industrial and industrial/ commercial space for new development in the Victory Court area could shift business activity to other locations, such as along the San Leandro Street industrial corridor in East Oakland, in areas between I-880 and the Estuary, and in parts of West Oakland. There also could be some shifts of business activity outside of Oakland to locations along the I-880 and/or I-80 corridors.

**B) FROM A REGIONAL PERSPECTIVE, THE PROPOSED AMENDMENTS WOULD ACCOMMODATE MORE GROWTH IN DOWNTOWN OAKLAND, THEREBY REDUCING GROWTH PRESSURES ELSEWHERE**

64. From a regional perspective, the Proposed Amendments would affect the distribution and location of growth within the East Bay and Bay Area region. It would result in more growth in Oakland and downtown Oakland, at the center of the region, and less growth in other areas.
65. Major retail shopping, entertainment/retail, and ballpark/commercial developments in the Project Area as a result of the Proposed Amendments, would capture activity that would otherwise locate elsewhere in the East Bay and/or Bay Area. For example, other locations for a new ballpark have included Fremont and downtown San José. Development of major retail shopping in the Project Area would increase shopping opportunities in Oakland and stem the leakage of retail spending to areas outside of Oakland in the East Bay and San Francisco. Thus, the Proposed Amendments would facilitate ballpark and associated commercial development in a central, regional location with good transportation/transit accessibility from throughout the region. It would facilitate retail development in closer proximity to Oakland consumers thereby reducing their travel distances for shopping trips.
66. The Proposed Amendments also would accommodate more housing and population growth in the Project Area, thereby reducing demand for housing in more outlying locations. The project would support additional housing in a central Bay Area location with strong housing demand. Higher-density housing in the Project Area attracts households with a high proportion of working adults who value good accessibility to workplaces nearby and elsewhere in the Inner East Bay and San Francisco. Over the long term, with the Proposed Amendments, more higher-density housing in downtown Oakland at the center of the region is likely to result in a larger total regional housing supply than would a more dispersed, lower-density pattern of regional development, and it would result in more housing in close proximity to employment centers in the Central Bay Area.

**C) SUMMARY**

67. Overall, the effects of the Proposed Amendments on growth would be largely beneficial and not considered substantial and adverse.