

**REDEVELOPMENT AGENCY
AND THE CITY OF OAKLAND
AGENDA REPORT**

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2010 JUL 15 PM 5:09

TO: Office of the City/Agency Administrator
ATTN: Dan Lindheim
FROM: Community and Economic Development Agency
DATE: July 13, 2010

RE: **Public Hearing, Report and the following legislation:**

(A) Resolution Authorizing the Agency to Enter Into a Thirteenth Amendment to the Disposition and Development Agreement with Oakland T12 LLC, Regarding the City Center Project to (1) Extend the Date to Complete an Office Development on Block T-12 of the City Center Project by 36 Months Changing it from April 12, 2012 to April 12, 2015, with two Additional Extension Options of 12 Months each, and (2) Accept Payment of \$300,000 from Oakland T12 LLC to the Agency for the Initial Extension, and Payments of \$300,000 and \$400,000, Respectively, for each Additional 12-Month Option to Extend to Complete the Office Development

(B) A City Ordinance Authorizing the City Administrator to Negotiate and Execute a Thirteenth Amendment to the Disposition and Development Agreement with Oakland T12 LLC, Regarding the City Center Project to Extend the Date to Substantially Complete an Office Development on Block T-12 of the City Center Project by 36 months (from April 12, 2012 to April 12, 2015), with two Additional Extension Options of 12 months each

SUMMARY

The Community and Economic Development Agency ("CEDA") is recommending approval of a Redevelopment Agency ("Agency") resolution and a City of Oakland ("City") ordinance authorizing the Agency/City Administrator to enter into a Thirteenth Amendment to a Disposition and Development Agreement (DDA) with Oakland T12 LLC, a Delaware limited liability company ("Oakland T12" or "Shorenstein"), created by Shorenstein Realty Investors Eight, L.P. ("SRI Eight"), to extend the date for substantial completion¹ of a mixed-use

¹ "Substantial Completion" is defined in the DDA as follows: The completion of the building proposed for the Project Site as contemplated by the PUD, excluding the following:

- (1) construction of upper floor internal build-outs of tenant spaces, shared corridors and other such common area build-outs not required until tenant occupancy;
- (2) completion of any punch-list items of construction work remaining to be performed;
- (3) receipt of, or sign off on, all City Approvals or Governmental Agency Approvals; provided that with respect to City Approvals, Developer shall have requested a Temporary Certificate of Occupancy inspection, and such request is timely and appropriate or would be timely and appropriate except for Governmental Agency Approvals and/or actions required from PG&E;
- (4) completion of landscaping provided that Developer has provided all required bonding, subguard or other sureties therefor; and

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commercial development (the “Project”) on Block T-12 of the City Center Project (“T-12” or the “Property”).

Specifically, staff is proposing that the City Council and the Agency Board authorize the following actions:

1. **Deadline to Substantially Complete Construction:** Authorize a Thirteenth Amendment to the DDA to extend the date to substantially complete the mixed-use commercial development by 36 months (the “Initial Extension”), changing it from April 2012 to April 2015, with two additional extension options of 12 months each (the “Extension Options”) for up to five years.
2. **Payment of Extensions:** Accept payment of \$300,000 from Oakland T12 to the Agency for the Initial Extension, and payments of \$300,000 and \$400,000, respectively, for each additional 12-month Extension Option to substantially complete the Project.
3. **Site Maintenance:** Include a provision in the 13th Amendment requiring Oakland T12 to ensure, at its sole cost, that the site is properly secured and maintained during the extended term of the DDA.
4. **Transfer of rights and obligations under the DDA:** Include a provision in the 13th Amendment allowing Oakland T-12 to assign its rights and obligations with respect to T-12, to any entity directly or indirectly owned 50% or more, or directly or indirectly controlled by MetLife, Inc., Shorenstein’s partner in Oakland T12, if that development entity is a nationally or regionally recognized real estate development company with a good business reputation, which has, either (1) within the preceding 10-year period, successfully developed either a major urban mixed-use office project similar to the project contemplated by the PUD Permit, or a major urban project similar to the project then proposed for development at T-12, or (2) within the preceding 15-year period, successfully developed either three major urban mixed-use office projects similar to the project contemplated by the PUD Permit, or three major urban projects similar to the project then proposed for development at T-12, and which entity has adequate financial capacity to develop T-12.

(5) satisfaction of the conditions of approval attached to the PUD that do not relate to the physical construction and/or the Project Site (e.g. LEED certification, landscaping, installation of public improvements, installation of bicycle racks, tree plantings, installation of art work etc.) provided that Developer has provided all required bonding, subguard or other sureties therefor.

FISCAL IMPACT

Payments for the Extension

Approval of the Thirteenth Amendment to the DDA will generate a payment of \$300,000 from Oakland T12 to the Agency for the Initial Extension of three years, and payments of \$300,000 and \$400,000 for the additional 12-month Extension Options to substantially complete the Project, i.e., for years four and five, if required. These revenues will be placed in the Agency's Central District Operations Fund (Fund 9510), Capital Improvement Project – Economic Development Organization (#94800), non-project.

Property Tax Increment

Based on current calculations, the Project, if completed at the end of the proposed Initial Extension period in FY 2014-15, will generate an estimated average of \$715,000 in tax increment revenue for the Agency per year, net of all pass-throughs and set-asides, plus approximately \$325,000 per year for the Low and Moderate Income Housing Fund until June 11, 2022, the date on which the Central District Redevelopment Project Area plan, per the requirements of Assembly Bill 1290, can no longer receive tax increment revenues.

The suspension of construction activities at T-12 in December of 2008 is delaying the Agency's anticipated receipt of total tax increment revenues from the completed Project. Between 2008 (when tax increment was first received after the sale of the Agency-owned Property to Oakland T12 in December of 2007) and 2022, it was estimated that the Project would produce approximately \$8.8 million in tax increment revenues for the Central District and \$4 million for the Low and Moderate Income Housing Fund. The proposed Initial Extension of the date to substantially complete Project construction from April 2012 to April 2015 will defer the receipt of estimated tax increment revenues generated by the Project until FY 2014-15, and reduce tax increment revenues by a total of \$3.4 million from \$8.8 million to \$5.4 million in tax increment revenues for the Central District and by a total of \$1 million from \$4 million to \$3 million for the Low and Moderate Income Housing Fund. Similarly, the proposed Initial Extension will reduce the City's share of the 20 percent pass-through of property taxes to other taxing entities by approximately \$280,000.

At this time, it is not possible for the Agency to identify an alternative developer that could complete the proposed Project in accordance with the original schedule in order to receive tax increment revenues as originally projected.

BACKGROUND

The DDA

The Agency has maintained a DDA for a twelve-block area of Downtown Oakland, including T-12, for over thirty-five years. The original DDA between the Agency and Grubb & Ellis Company was executed on November 4, 1970.

As a result of various factors, including changes in the developer and local and regional market conditions, the DDA was amended a number of times, including: a First Amendment to the DDA dated March 20, 1972, a Second Amendment dated August 29, 1974, a Third Amendment dated January 6, 1976, a Fourth Amendment dated March 1, 1976, a Fifth Amendment dated January 14, 1980, a Sixth Amendment dated July 9, 1982, a Seventh Amendment dated August 1, 1988, an Eighth Amendment dated December 20, 1996, a Ninth Amendment dated May 17, 2000, a Tenth Amendment dated August 23, 2002, an Eleventh Amendment dated April 12, 2006 and a Twelfth Amendment dated April 11, 2007.

Shorenstein Realty Investors

Under the Eighth Amendment to the DDA the agreement was assigned from Oakland Centre City, Inc., to SRI Three, a special purpose entity created by Shorenstein. The DDA amendment sets forth the terms and conditions of the sale of the properties, including blocks T-12 and T-5/6, to Shorenstein, and governs the development and use of these parcels by Shorenstein and any successors in interest through recorded covenants running with the land. The Ninth Amendment to the DDA in 2000 further amended the disposition price formula for T5-T6, T-9, T-10 and T-12 and established terms and conditions precedent to the disposition of T-9 for office development. The Tenth Amendment to the DDA in 2002 released block T-10, originally slated for a high-rise office building, to the Agency who subsequently sold it to Olson Urban Housing for the construction of approximately 250 condominiums, and extended development rights on blocks T-5/6 and T-12. The Eleventh Amendment to the DDA allowed for a residential land use option on Block T-12; a twelve-month purchase option on the parcel following DDA execution; and extended the time limit for Shorenstein to develop blocks T-5/6 by four years, until December 31, 2013. The Twelfth Amendment to the DDA moved the sales date for T-12 back to December 31, 2007, as it was in the Tenth Amendment, and revised the schedule of performance requirements relating to Shorenstein's obligation to obtain Planned Unit Development ("PUD") and Grading Permits such that these obligations apply as post-closing responsibilities of the Developer that had to be met prior to commencement of Project construction. The Twelfth Amendment also commits the Developer to (i) contribute up to \$100,000 to fund the preparation of a retail attraction strategy for Downtown Oakland (ii) explore the feasibility of incorporating retail components into its commercial developments on blocks T-12 and/or T-5/6, and (iii) investigate the development of a World Trade Showcase Center Project on block T-5/6.

Subsequently, with the consent of the Agency and City, SRI Eight assigned all of its rights and obligations as developer of T-12 to Oakland T12 pursuant to an Assignment and Assumption of Disposition and Development Agreement dated December 6, 2007.

Recent Project History

Pursuant to the terms of the Twelfth Amendment to the DDA, the Agency sold the Property to Oakland T12 for \$5.2 million on December 7, 2007. Oakland T12 started Project construction in October of 2008. In December of 2008, after completing the environmental clean-up of the Property, Oakland T12 suspended Project construction. Oakland T12 cited the widening national recession, rising vacancies in the regional office real estate market and the loss of American President Lines, one of its anchor tenants in Oakland, as primary reasons for their decision to delay completion of the Project.

In April of 2009, staff presented to the City Council a preliminary business term sheet for the Thirteenth Amendment to the DDA, which also included a proposal for a Development Agreement (DA) to be executed between Oakland T12 and the City. The proposed DA would have included provisions to (1) extend the validity and term of several approved building permits for the project to be consistent with the terms of the Thirteenth Amendment, and (2) hold constant all permit fees and charges for the project as of the date of permit issuance until the Oakland T12 resumes construction activities at the Property. Staff could not reach agreement with Oakland T12 on the terms of the DA, and the Developer decided not to pursue the agreement. However, staff was able to negotiate higher payments of \$100,000 each from Oakland T12 for the two Extension Options as directed by the Agency Board at the time of the presentation in April of 2009.

KEY ISSUES AND IMPACTS

The issue is whether the Agency should approve a Thirteenth Amendment to the DDA to provide an Initial Extension of 36 months to substantially complete the mixed-use commercial development, with two additional Extension Options of 12 months each.

The DDA Amendment

Extension of Date to Substantially Complete the Project

Staff has evaluated Shorenstein's stated reasons for suspending all construction activities for the Project and determined that their request for a 36-month Initial Extension, and two possible 12-month Extension Options, is reasonable at this time.

Prior to starting project construction in October of 2008, Oakland T12 had not secured a lease commitment from an anchor tenant for office space in the proposed building. Worsening economic conditions in the East Bay's commercial property markets and the departure of American President Lines, which occupied 139,000 square feet of space at Shorenstein's City Center, cast serious doubt on Oakland T12's ability to attract quality tenants to the Project in the near term and compelled the company to suspend construction on the Project.

Moreover, as a result of the national and regional economic downturn, the Class A office market in Oakland's Central Business District is going through a period of high vacancies (15 percent during the first quarter of 2010). However, rental office rates in the Central Business District appear to be stabilizing and the employment market in the East Bay is showing small gains. Nevertheless, in the near term, new construction activities in the East Bay are minimal with only one project underway in San Leandro. As landlords have focused their efforts on filling up vacancies and with an East Bay employment market that is only slowly recovering, it is likely that there will not be any new construction of office buildings in Oakland for some time.

Oakland T12 intends to resume Project construction as soon as they have a lease commitment from an anchor tenant or upon stabilization of the commercial property market in the East Bay. Oakland T12's request for a 36-month Initial Extension of the date to substantially complete the Project, from April 2012 to April 2015, should provide the developer with sufficient time to restart construction within at least 24 months (by April 2013) prior to the initial extension of the date to substantially complete the Project. However, in the event that economic activity does not recover in time to justify new office development activities, Oakland T12 has requested the option to extend the date for substantial completion of the Project by two extra 12-month periods. Oakland T12 will make a payment of \$300,000 to the Agency for the Initial Extension of three years upon execution of the Thirteenth Amendment, and, if necessary, payments of \$300,000 and \$400,000, respectively, for years four and five, if required. The escalating costs for the Extension Options are intended to encourage Oakland T12 to restart Project construction as soon as possible.

Agency's Rights and Remedies

Once Oakland T12 has stopped construction work for a substantial period of time, the Agency, pursuant to the terms of the DDA, can ask that work be restarted by a date certain. If Oakland T12 does not comply, the Agency could declare Oakland T12 in default, seek performance under the terms of the DDA, and, if the default is not cured in a timely manner, file a lawsuit against Oakland T12. If the Agency seeks to recover the Property, under the terms of the DDA, the Agency would not be required to pay up front for it. The Agency would take it back subject to any liens or encumbrances and the right of Oakland T12 to recover its purchase price, less liens, out of a future Agency sale of the Property. Any new project would be subject to planning and building code requirements effective at the time of permit approval.

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Should the Agency ultimately reacquire the Property, staff would likely issue a Request for Proposals to solicit development proposals for the site from other qualified private companies. During the next three years, it is highly unlikely that the Agency will be able to partner with another developer to complete a project on the Property.

Lastly, Oakland T12 could also propose to transfer the property to another developer. While the Agency has the right to approve any proposed transferee, it is not certain, under present economic circumstances, that a different developer would be able to construct the proposed office building more expeditiously than Oakland T12.

Site Maintenance

During the Initial Extension and any additional Extension Periods, Oakland T12 will continue, at its sole cost and expense, to maintain the Property to ensure the stabilization and maintenance of the excavation. In the event that the Agency repurchases the Property, it will be responsible for maintaining the site.

CEQA Review

An Environmental Impact Report (“EIR”) was certified in 2000 for the City Center Project and three addenda were subsequently completed (in 2003, 2005 and 2007). As detailed on “*Attachment B – Oakland City Center CEQA Compliance*”, there are no changes to the Project, new information, or changes in circumstances that would result in new significant environmental impacts or substantially more severe impacts from those previously identified in the 2000 EIR and later addenda. Therefore, no further environmental evaluation is required, and no Supplemental/ Subsequent EIR is needed pursuant to State CEQA Guidelines Section 15162. Moreover, the Mitigation Monitoring and Reporting Program approved in 2007 is still applicable and is attached to the Agency resolution and the City ordinance.

Transfer of the Property

Oakland T12 has requested additional modifications to the DDA that will permit them to transfer the Property to their joint venture partner, MetLife or a related entity. Staff is generally agreeable to this request as long as MetLife or the related entity can demonstrate at the time of requesting such a transfer, that the new development entity is a nationally or regionally recognized real estate development company with a good business reputation, which has, either (1) within the preceding 10-year period, successfully developed either a major urban mixed-use office project similar to the project contemplated by the PUD Permit, or a major urban project similar to the project then proposed for development at Development Site T-12, or (2) within the preceding 15-year period, successfully developed either 3 major urban mixed-use office projects similar to the project contemplated by the PUD Permit, or 3 major urban projects similar to the project then proposed for development at T-12, and that a proposed assignee has adequate financial capacity to develop T-12. The required evidence of development experience and

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financial capacity is sufficient to demonstrate that a new developer could develop the Project in a timely fashion.

PROJECT DESCRIPTION

The proposed Thirteenth Amendment to the DDA will provide an Initial Extension of 36 months, changing it from April 2012 to April 2015, to substantially complete the mixed-use commercial development, with two additional Extension Options of 12 months each.

Location

The Property is bounded by 11th Street, 12th Street, Jefferson Street and Martin Luther King, Jr. Way. T12 is located to the east of Landmark Place, a 92-unit residential condominium project, to the south of the City Center West Garage, to the southwest of the Ronald V. Dellums Federal Building, to the west of 555 City Center, the new 20-story office building (Block T-9), and north of Lafayette Park.

T-12 Project Scope

Oakland T12 plans to develop a 26-story office building on the Property. The Project includes the following uses:

- | | |
|--------------------------------|-------------------|
| ○ Lobby, Retail & Office | 596,576 sf |
| ○ <u>Parking & Loading</u> | <u>128,854 sf</u> |
| ○ Combined | 725,430 sf |

SUSTAINABLE OPPORTUNITIES

Economic

The proposed project will take an underutilized site and convert it to better economic use. The commercial project on T-12 will generate approximately \$89,000 per year in additional property tax revenue for the City's General Fund beginning in FY 2014-15 and increase the Redevelopment Agency's net tax increment by an average of \$715,000 per year through 2022, the end of the Central District Redevelopment Area. The completed building will house approximately 1,680 workers; one job for every 350 square feet of office space.

Environmental

The Project's location next to mass transit will reduce the reliance on automobiles and decrease vehicular pollution. The DDA also requires Shorenstein to work with the Agency's

staff to develop appropriate and economically feasible sustainable building goals and strategies for the Project using the Agency's Sustainable Building Guide and Project Management Tool; and to the extent economically feasible, incorporate into the final construction plans for the Project green building techniques such as energy-conserving design and appliances, water-conserving fixtures and landscape, recycled-content building materials and low waste construction techniques. Shorenstein is required to seek LEED certification for the Project.

Social Equity

The Project will generate approximately \$325,000 annually for the Low and Moderate Income Housing Fund beginning in FY 2014-15, which will fund up to three new affordable housing units per year or approximately thirty-nine units by the end of the Central District Redevelopment Plan's life in 2022.

Additionally, the Project will be assessed a Jobs/Housing Impact Fee, which is currently \$4.56 dollars per gross square feet of office space in the development minus 25,000 square feet. As currently proposed the T-12 project includes approximately 596,000 square feet of office space which would result in a total impact fee of \$2.6 million. These funds will be deposited in the City's Affordable Housing Trust Fund.

Lastly, in conjunction with the construction of the "core and shell" of the Project, Oakland T12 will use good faith efforts to recruit and offer opportunities for contractors and subcontractors under primary contractors to local business residents as follows: (i) Recruitment and hiring of all Project workers at prevailing wage; (ii) Development of a program with contractors and subcontractors for the Project to arrange placement of graduates from the Cypress-Mandela Center pre-apprenticeship program; (iii) Development of a workshop program to mentor local businesses through the competitive bid process including what is expected to ensure that they are not overlooked with respect to the Project and the paperwork requirements; (iv) Work with the City to develop an outreach program (including advertising in appropriate publications and working with existing organizations which serve the local and small business community) to identify and notify local businesses and encourage them to participate in the workshop program and competitive bid process for the Project; (v) Work with the City to identify local business employment programs; and (vi) Make a good faith effort to meet the 20% goal of the City's Local/Small Local Business Enterprise Program.

DISABILITY AND SENIOR CITIZEN ACCESS

All new development projects are required to comply with Federal ADA Accessibility Guidelines and the State of California's Title 24 accessibility regulations.

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RECOMMENDATIONS AND RATIONALE

It is recommended that the Agency Board/City Council authorize the Agency Administrator to enter into a Thirteenth Amendment to the DDA between the Agency, City and Oakland T12 to extend the date for substantial completion of a mixed-use commercial development on block T-12 of the City Center Project. Granting Oakland T12 an extension of the date to complete construction of a mixed-use Project is reasonable in light of the national recession and the substantial softening of the local and regional office markets.

The Project, once completed, will generate tax increment monies, and meet the following objectives in the Central District Five-Year Implementation Plan for 2009-2012:

1. Redevelop a key underutilized site in the Central District;
2. Improve environmental design within the Central District; and
3. Enhance residential and commercial property values in the surrounding areas, once developed, and encourage efforts to alleviate economic and physical blight conditions in the area by enhancing the development potential and overall economic viability of neighboring properties.

ACTION REQUESTED OF THE AGENCY/CITY COUNCIL

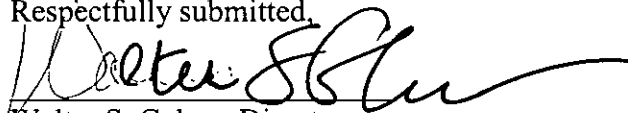
It is recommended that the City Council and the Redevelopment Agency approve an Agency resolution and a City ordinance authorizing the Agency/City Administrator to enter into a Thirteenth Amendment to a DDA with Oakland T12 to:

1. Extend the date to substantially complete the mixed-use commercial development by 36 months, changing it from April 2012 to April 2015, with two additional extension options of 12 months each for up to five years.
2. Accept payment of \$300,000 from Oakland T12 LLC to the Agency for the Initial Extension, and payments of \$300,000 and \$400,000, respectively, for each additional 12-month Extension Option to complete the Project.
3. Incorporate certain site maintenance provisions for the Property in the DDA.

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4. Allow for a transfer of the Property to Oakland T12's joint venture partner, MetLife, or a related entity subject to certain conditions.

Respectfully submitted,



Walter S. Cohen, Director
Community and Economic Development Agency

Reviewed by:
Gregory Hunter, Deputy Director
Economic Development and Redevelopment

Prepared by:
Jens Hillmer
Urban Economic Coordinator

APPROVED AND FORWARDED TO THE
COMMUNITY AND ECONOMIC DEVELOPMENT
COMMITTEE:



Office of the City/Agency Administrator

Attachment A - DDA Amendment Deal Point Summary
Attachment B - Oakland City Center CEQA Compliance

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ATTACHMENT A

Changes in Terms per the Thirteenth Amendment to the Oakland City Center Disposition and Development Agreement

DDA Terms	13 th Amendment	Existing DDA
Deadline to Substantially Complete Construction	<p>Initial Extension: April 12, 2015</p> <p>Three Extension Options: April 12, 2016 April 12, 2017</p>	April 12, 2012
Payments for Extension	<p>Initial Extension: April 12, 2015 - \$300,000</p> <p>Three Extension Options: April 12, 2016 - \$300,000 April 12, 2017 - \$400,000</p>	The current DDA does not provide for any payments by SRI Eight for extending the date to substantially complete the Project.
Site Maintenance and Security Requirements	Oakland T12 will ensure that the site is properly secured and maintained during the term of the DDA, as amended.	The current DDA does not provide for any site maintenance and security requirements.
Transfer of rights and obligations under the DDA	Oakland T-12 can assign its rights and obligations with respect to T-12, to any entity directly or indirectly owned 50% or more or directly or indirectly controlled by MetLife, Inc., if that development entity is a nationally or regionally recognized real estate development company with a good business reputation, which has, within the preceding 15-year period, successfully developed either 3 major urban mixed-use office project similar to the project contemplated by the PUD Permit, or 3 major urban project similar to the project then proposed for development at T-12, and that a proposed assignee has adequate financial capacity to develop T-12.	The current DDA does not provide for such conditional transfer of development rights.

**Attachment B
Oakland City Center Project
CEQA Compliance**

An Environmental Impact Report (“EIR”) was certified in 2000 for the Oakland City Center Project and three addenda were subsequently completed (in 2003, 2005 and 2007). As detailed below, there are no changes to the project, new information, or changes in circumstances that would result in new significant environmental impacts or substantially more severe impacts from those previously identified in the 2000 EIR and later addenda. Therefore, no further environmental evaluation is required, and no Supplemental/ Subsequent EIR is needed pursuant to State CEQA Guidelines Section 15162. Moreover, the Mitigation Monitoring and Reporting Program approved in 2005 is still applicable.

The Oakland Planning Commission certified the EIR for the Oakland City Center Project (the “Original Project”) in April 2000. The Original Project consisted of the development of high-rise buildings on four city blocks in downtown Oakland – Blocks T-5/6, T-9, T-10 and T-12. The proposed land use under the Original Project for the four sites was predominately office with limited residential.

Development Characteristics of Original Project

	Block T-5/6	Block T-9	Block T-10	Block T-12	2000 EIR Project
	(approved)	(completed)	(approved)	(approved)	
Office	580,000 sf	470,000 sf	550,000 sf	584,000 sf	2,184,000 sf
Residential	0	0	200 units	0	200 units
Commercial	7,500 sf	7,500 sf	8,000 sf	0	23,000 sf
Parking	150 spaces	236 spaces	230 spaces	220 spaces	836 spaces
Parking access	11 th Street	11 th Street	Jefferson St.	11 th Street	N/A
Loading Spaces	3	3	3	3	12 spaces
Loading access	11 th Street	11 th Street	MLK Jr. Way	11 th Street	N/A
Hgt. (stories)	26 stories	21 stories	31 stories	26 stories	Max. 31 stories
Height (feet)	390 feet	306 feet	440 feet	390 feet	Max: 440 feet

The Shorenstein Company has completed construction of one high-rise office building on Block T-9. The Shorenstein Company ceded its development rights to Block T-10 and, in August 2004, Olson Urban Housing received approval to develop 251 residential units, 2,600 square feet of ground-floor commercial space, and 252 parking spaces in an 80-foot-tall, seven-story-plus-basement structure on Block T-10. The environmental effects of the modification to the Original Project for Block T-10 were evaluated in an Addendum (Addendum #1) to the 2000 Final EIR (FEIR) for the Oakland City Center Project. The FEIR Addendum #1 found that the modified T-10 project would have no new or substantially more severe impacts than those identified in the Final EIR. The FEIR Addendum #1 was approved by the Oakland Planning Commission in 2003, and the T-10 development is now under construction.

Development Characteristics of 2000 EIR and Approved Project as of August 2004

	2000 EIR Total Project	Block T-10 Addendum #1	Modified Total Project Addendum #1	Block T-10 Actual	Approved City Center Project as of August 2004
Office	2,184,000 sf	470,000 sf	1,634,000 sf	-0-	1,634,000 sf
Residential	200 units	400 units	400 units	-251-	251 units
Commercial	23,000 sf	3,000-10,000	Max. 25,000 sq ft.	2,600	17,600
Parking	836 spaces	400 spaces	1,006 spaces	252 spaces	858
Parking access	N/A	Jefferson St.	Jefferson St.	Jefferson St.	N/A
Loading Spaces	12 spaces	1	10	1	10
Loading access	N/A	14 th Street	MLK Jr. Way	14 th Street	N/A
Hgt. (stories)	Max. 31 stories	20-24 stories	Max. 26 stories	8 stories	Max. 26 stories
Height (feet)	Max. 440 feet	240 feet	390 feet	80 feet	390 feet

In June 2005 a second Addendum to the 2000 FEIR for the Oakland City Center Project ("Addendum #2") was completed to update the environmental analysis contained in the FEIR and evaluate the potential differences between the environmental effects identified as part of the Original Project and the potential environmental effects resulting from a Modified Block T-12 Project (two options for the residential development, rather than office development, of Block T-12).

Approved and Modified Block T-12 Development Characteristics

	Original T-12	Modified Option 1	Modified Option 2
Office	584,000 sf	-0-	-0-
Residential	0	284 units	450 units
Commercial	0	-0-	-0-
Parking	220 spaces	284	430
Parking access	11 th Street	12 th Street	12 th Street
Loading Spaces	3	2	3
Loading access	11 th Street	12 th Street	12 th Street
Hgt. (stories)	26 stories	8 stories	8 to 25 stories
Height (feet)	390 feet	85 feet	240 feet

Addendum #2 acknowledged that since certification of the City Center Project EIR, changes in the immediate project vicinity had occurred with the completion of Landmark Place, a 92-unit condominium complex located on Martin Luther King Jr. Way and 12th Street and the construction of the Market Square Phase 1 Project, a 115-unit residential project. The Market Square Phase 1 Project is now occupied and Market Square Phase 2, is under construction at 901 Jefferson Street. Market Square Phase 2 includes 1,030 sf of commercial space and 75 residential condominiums.

Addendum #2 contained a traffic analysis of the high-rise office tower and modified residential options for Block T-12. This analysis included a review of anticipated traffic impacts of the approved Uptown Project, based on the EIR for that project to determine

whether the T-12 Project could adversely affect intersections that would operate at unacceptable levels of service once the Uptown project was completed. This review concluded that there would be little interaction between traffic from the two projects at the affected intersections for the following reasons: First, although the projects would be as close as approximately six blocks from one another, traffic would use different streets to travel between the I-980 freeway and each of the projects, because Block T-12 is closer to the freeway ramps at 11th and 12th Streets, while the Uptown site is closer to ramps at 17th and 18th Streets. Second, Telegraph Ave, which forms the eastern boundary of the Uptown site and would be adversely affected by Uptown project traffic at several intersections, does not effectively serve the Block T12 site, which is south of Telegraph's terminus at Broadway. Third, the intersections that would be adversely affected by the Uptown project are all several blocks from T-12 (19th Street and north), meaning that any traffic from the T-12 project that was to pass through these intersections would likely be in small enough volumes that it would not result in meaningful changes to average vehicle delay (or level of service), and thus would not result in a cumulative contribution to any cumulative impacts. Finally, the Uptown project will be required to implement mitigation at all of the intersections where that project would result in a significant adverse effect.

Since the certification of Addendum #2 on August 3, 2005, projects being developed in the downtown area have included the City Center Project in their cumulative traffic analysis.

A residential option is no longer being considered for the T-12 site. The T-12 project now being proposed is exactly the same as the office tower project for T-12 that was studied in the 2000 FEIR and re-examined in comparison to residential options in Addendum #2. The development characteristics of the approved City Center Project as of August 2004 now include significantly less office space (550,000 sf) and slightly more residential units (51) than the Original Project. Additionally, the potential height for buildings has been reduced by 50 feet. Therefore, the current City Center Project will likely generate fewer trips than what was studied because the amount of office space now included in the overall project is significantly lower than what was studied (less 550,000 sf).

Difference Between Development Characteristics of Original Project and the Project as of August 2004

	2000 EIR Total Project	Approved as of August 2004	Difference
Office	2,184,000 sf	1,634,000 sf	Less 550,000 sf
Residential	200 units	251 units	Plus 51 units
Commercial	23,000 sf	17,600	Less 5,400
Parking	836 spaces	858	Plus 28
Parking access	N/A	N/A	
Loading Spaces	12 spaces	10	Less 2 spaces
Loading access	N/A	N/A	
Hgt. (stories)	Max. 31 stories	Max. 26 stories	Less 5 stories
Height (feet)	Max. 440 feet	390 feet	Less 50 feet

In November of 2007 a third Addendum to the 2000 FEIR for the Oakland City Center Project (“Addendum #3”) was completed to address the current office project proposed for Block T12. The 2000 EIR identified four significant and unavoidable impacts of the four block City Center project, including: a deteriorated level of service at the intersection of 12th and Brush Streets, cumulative impacts on regional air pollution, cumulative noise impacts from long-term traffic increases, and potential exceedances of the wind hazard speed. These impacts are primarily due to the office component of the City Center PUD project. Addendum #3 concluded that there is no substantial change proposed by the Block T12 project that would require major revisions to the previous EIR due to new or more severe significant impacts; that there is no substantial change in circumstances that would cause new or more severe significant impacts; and that there is no new information of substantial importance that identifies new or more severe significant impacts. Therefore, per CEQA Guidelines Section 15162 further environmental review was not required.

Aside from the four significant and unavoidable impacts discussed above, all other impacts identified in the EIR and Addenda that would apply to the Block T12 project can be mitigated to a less-than-significant level with the incorporation of mitigation measures identified in the Mitigation and Monitoring Reporting Program (MMRP), which is incorporated into the Conditions of Approval. The mitigation measures are related to operational and construction period impacts of the project on traffic circulation, air quality, noise, wind, geology and soils, hydrology and water quality, cultural resources, and hazards and hazardous materials.

The MMRP for the City Center Block T-12 Project was revised and approved by the Planning Commission on August 3, 2005. The MMRP included all applicable measures identified in the City Center Project EIR, as revised in Addendum #2 to the City Center Project EIR. The MMRP contemplated the development of office space on T-12 or the development of a Modified Residential Project on T-12. Therefore the MMRP for the City Center Block T-12 Project as approved by the Planning Commission on August 3, 2005 is applicable since it contemplated the office development on T-12 as currently and originally proposed, except as described below.

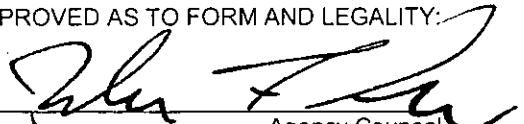
Mitigation Measure B.4 from the 2000 EIR addressed the parking shortfall identified as a result of the project. Because parking is no longer considered a significant impact under CEQA, the mitigation measure no longer applies to the City Center PUD. However, due to the substantial potential parking shortfall of 1,600 spaces for the four-block City Center PUD, the project sponsor is required to prepare a Transportation Demand Management (TDM) Plan in order to reduce the amount of the parking shortfall. When a parking shortfall exists, it is the policy of the City that alternative transportation methods be encouraged to fill the gap. This focus on reduction of parking demand rather than increase in parking supply is a cornerstone of the Oakland Transit First policy. Therefore the TDM Plan shall include measures that increase the efficiency of parking on the project vicinity and reduce parking demand. Condition of Approval 33 requires the project sponsor to submit a detailed TDM Plan to the City for review and approval.

Based on the analysis included in the FEIR and Addenda, no substantive revisions are needed to the 2000 Oakland City Center FEIR because no new significant impacts or substantially more severe impacts would result from extending the dates of substantial project completion as currently proposed. Although there are new developments in the general vicinity since the 2000 FEIR, the City Center Project is now substantially smaller than what was studied in the 2000 FEIR and these projects do not significantly affect the same intersections as the City Center Project. Therefore, there have been no changes in the circumstances in the project area that would result in new significant environmental impacts or substantially more severe impacts; and because no new information has come to light that would indicate the potential for new significant impacts or substantially more severe impacts than were discussed in the 2000 FEIR no further evaluation is required, and no Supplemental/Subsequent EIR is needed pursuant to State CEQA Guidelines Section 15162.

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OFFICE OF THE CITY CLERK
OAKLAND

2010 JUL 15 PM 5:10

APPROVED AS TO FORM AND LEGALITY:


Agency Counsel

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

RESOLUTION No. _____ C.M.S.

Resolution Authorizing the Agency to Enter Into a Thirteenth Amendment to the Disposition and Development Agreement with Oakland T12 LLC, Regarding the City Center Project to (1) Extend the Date to Complete an Office Development on Block T-12 of the City Center Project by 36 Months Changing it from April 12, 2012 to April 12, 2015, with two Additional Extension Options of 12 Months each and (2) Accept Payment of \$300,000 from Oakland T12 LLC to the Agency for the Initial Extension, and Payments of \$300,000 and \$400,000, Respectively, for each Additional 12-Month Option to Extend to Complete the Office Development

WHEREAS, the City of Oakland ("City"), the Redevelopment Agency of the City of Oakland ("Agency") and Oakland T-12 LLC ("Oakland T12") are parties to a Disposition and Development Agreement ("DDA"), as amended, whereby Oakland T12 is the master developer of the twelve block area in the Central District Urban Renewal Area commonly referred to as the City Center Project; and

WHEREAS, on December 7, 2007, pursuant to the terms of the Twelfth Amendment to the DDA, the Agency sold Block T-12 ("Block T-12" or the "Property", a legal description of which is attached at Exhibit A) to Oakland T12 for development of an office development ("T-12 Project"); and

WHEREAS, Oakland T12 started T-12 Project construction in October of 2008 and, per the terms of the Twelfth Amendment to the DDA, has to complete the T-12 Project by April of 2012; and

WHEREAS, Oakland T12 suspended construction on the T-12 Project because of the national recession and rising vacancies in the regional office real estate market, and requested an extension of the date to complete the T-12 Project; and

WHEREAS, the parties to the DDA desire to further amend certain terms of the DDA to (1) extend the date to complete the T-12 Project by 36 months (the "Initial Extension"), changing it from April 2012 to April 2015, with two additional extension options of 12 months each (the "Extension Options") for up to five years, and (2) accept payment of \$300,000 from Oakland T12 to the Agency for the Initial Extension, and payments of \$300,000 and \$400,000, respectively, for each additional 12-month Extension Option to complete the T-12 Project; and

WHEREAS, the Redevelopment Agency is a Responsible Agency for this T-12 Project for purposes of environmental review under the California Environmental Quality Act of 1970 ("CEQA"); and

WHEREAS, an Environmental Impact Report ("EIR") was certified in 2000 for the City Center Project and three addenda were subsequently completed (in 2003, 2005 and 2007) in compliance with the California Environmental Quality Act (CEQA). There are no changes to the Project, new information, or changes in circumstances that would result in new significant environmental impacts or substantially more severe impacts from those previously identified in the 2000 EIR and later addenda. Therefore, no further environmental evaluation is required, and no Supplemental/Subsequent EIR is needed pursuant to State CEQA Guidelines Section 15162 et. seq. Moreover, the Mitigation Monitoring and Reporting Program approved in 2007 is still applicable; and

WHEREAS, as required by Health and Safety Code 33431, a notice of the public hearing regarding the Thirteenth Amendment to the DDA was given by publication at least once a week for not less than two weeks prior to the public hearing in a newspaper of general circulation in Alameda County; and

WHEREAS, the Agency has made available to the public for inspection, no later than the first date of publication of the notice for the hearing, a copy of the proposed Thirteenth Amendment to the DDA; and

WHEREAS, before this Thirteenth Amendment to the DDA may be executed by the Agency, the City shall have approved the execution of the Thirteenth Amendment to the DDA by ordinance after a public hearing; now, therefore, be it

RESOLVED: That the Agency hereby finds and determines: (1) that it has independently reviewed and considered the information contained in the previously certified EIR and Addendum #3, and the EIR and Addendum #3 comply with CEQA and the CEQA Guidelines' requirements for analysis of the Project's environmental effects and mitigation measures; (2) that none of the changes to the Project, or circumstances under which it will be undertaken, or new information require preparation of a subsequent or supplemental EIR; and (3) that the Mitigation Monitoring and Reporting Program for the Project is hereby (re) adopted as specified in the attached Exhibit B. The Environmental Review Officer shall cause to be filed a Notice of Determination; and be it further

RESOLVED: That the Redevelopment Agency hereby authorizes the Agency Administrator or his designee to negotiate and execute a Thirteenth Amendment to the DDA with Oakland T12 as set forth hereinabove and to take any other action with respect thereto consistent with this Resolution and its basic purpose and provided that the City shall also have approved an ordinance approving the execution of the Thirteenth Amendment to the DDA; and be it further

RESOLVED: That payments by Oakland T12 to the Agency of \$300,000 for the Initial Extension, and payment of \$300,000 and \$400,000, respectively, for each Extension Option, if necessary, will be placed in the Agency's Central District Operations Fund (Fund 9510), Capital Improvement Project – Economic Development Organization (#94800), no project; and be it further

RESOLVED: That any and all documents necessary to effectuate the intent of this resolution shall be reviewed and approved as to form by the Agency Counsel prior to execution by the Agency Administrator or his designee; and be it further

RESOLVED: That the record before the Agency's Governing Body relating to this Resolution includes, without limitation, the following:

1. the application, including all accompanying maps and papers;
2. all relevant plans and maps;
3. all final staff reports, decision letters and other documentation and information produced by or on behalf of the Agency;
4. all oral and written evidence received by the Agency staff, Planning Commission and City Council before and during the public hearings on the application;
5. all matters of common knowledge and all official enactments and acts of the City and Agency, such as (a) the General Plan and the General Plan Conformity Guidelines; (b) the Oakland Municipal Code, including, without limitation, the Oakland real estate regulations, Oakland Fire Code; (c) Oakland Planning Code; (d) other applicable City and Agency policies and regulations; and (e) all applicable state and federal laws, rules and regulations; and be it further

RESOLVED: That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the Agency's decision is based are respectively: (a) the Community and Economic Development Agency, Redevelopment Division, 250 Frank H. Ogawa Plaza, 5th Floor, Oakland; (b) the Community and Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland; and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland.

IN AGENCY, OAKLAND, CALIFORNIA, _____, 2010

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN,
 REID AND CHAIRPERSON BRUNNER

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
 LATONDA SIMMONS
Secretary of the Redevelopment Agency
 of the City of Oakland

Exhibit A

LEGAL DESCRIPTION

Block T-12

Real Property in the City of Oakland, County of Alameda, State of California, described as follows:

Lots 1 to 28 inclusive, Block 155 Kellersberger's Map of Oakland, filed in Book 7 of Maps, Page 3, Records of Alameda County.

APN: 002-0027-007

EXHIBIT B

MITIGATION MONITORING PROGRAM – BLOCK T-12

MITIGATION MONITORING AND REPORTING PROGRAM

Oakland City Center Project Addendum #3

Several mitigation measures identified in the 2000 FEIR have since been adopted by the City as Standard Conditions of Approval for all projects. However, these measures, where applicable to the New Modified Block T12 Project, have been retained here as mitigation for the purposes of clarity and simplicity, but revised to reflect current language.

Applicable 2000 FEIR Mitigation Measures—Traffic, Circulation and Parking (Amended and Restated)

The 2000 FEIR identified mitigation measures (Mitigation Measures B.1, B.4, B.5, B.6 and B.7) to address significant impacts resulting from the Original Project. Impacts B.2 and B.3, identified in the 2000 FEIR were found to result in less-than-significant impacts and therefore do not have any associated mitigation measures.

The following presents mitigation measures identified in the 2000 FEIR, amended and restated, that are applicable to the New Modified Block T12 Project.

Impact B.1: The project would result in increases in traffic delay in the downtown. In particular, the project would result in a deteriorated level of service at the intersection of 12th and Brush Streets in the a.m. peak hour. This would be a significant impact.

Mitigation Measure B.1a: At 12th and Brush Streets, the Block T12 project sponsor, along with the developer of Block T5/6 (Shorenstein or its successor) shall work with Caltrans and coordinate with the City to consider various improvement options, which could include signal timing improvements or additional lanes on the ramp. The developer shall fund its fair share of *any required improvements*. Because implementation of this measure requires consultation with Caltrans, the City cannot ensure that the mitigation measure could be implemented and the anticipated impact is therefore considered to be significant and unavoidable.

Responsible Implementing Entity: CEDA, Traffic Engineering Division (formerly part of Public Works Agency); Caltrans

Monitoring Action(s): CEDA, Traffic Engineering Division to work with Caltrans to determine analyze feasible improvement options and determine project share of cost.

Monitoring Responsibility: CEDA, Planning Division and Traffic Engineering Division

Monitoring Timeframe: Prior to issuance of certificate of occupancy for last building.

Impact B.5: Project ridership on AC Transit could be accommodated. Project ridership on BART could be accommodated on the trains, but is likely to exceed the capacity of the 12th Street station at project buildout. This would be a significant impact.

Mitigation Measure B.5: The project sponsor shall conduct a study at each phase of project buildout subsequent to Building T12, subject to the review and approval of the City Traffic

Engineering Division, to determine whether there is adequate exiting capacity at the 12th Street station. The Block T5/6 developer shall work with BART to assure that with buildout of the project (all four sites), adequate exit fare gates are available at the 11th Street exits in the a.m. peak hour so that the maximum passenger wait does not exceed two minutes to be processed through the fare gates. This may require the addition of one or more new fare gates at the 11th Street exit to the station. Implementation of this measure would reduce the anticipated impact to less-than-significant levels.

Responsible Implementing Entity: CEDA, Planning Division and Traffic Engineering Division; BART

Monitoring Action(s): CEDA, Traffic Engineering Division shall review project sponsor's transportation study prior to submittal to BART and shall participate, as necessary, in discussions with BART and project sponsor.

Monitoring Responsibility: CEDA, Planning Division and Traffic Engineering Division

Monitoring Timeframe: Prior to Final PUD approval for each subsequent phase after Block T12.

Impact B.6: The project is likely to increase the demand for bicycle parking in the City Center area, and may be inconsistent with the suggested bicycle parking space recommendations indicated in the Oakland Bicycle Master Plan. This would be a significant impact.

Mitigation Measure B.6: The project shall comply with the draft bicycle parking requirements of the City of Oakland, and unless determined by the Planning Director to be infeasible, provide on-site one short-term bicycle parking space for every 5,000 square feet of net retail space (with a minimum of two spaces) and for every 20,000 square feet of net office space (with a minimum of two spaces); and one long-term bicycle parking space for every 12,000 square feet of net retail space (with a minimum of two spaces) and for every 10,000 square feet of net office space (with a minimum of two spaces). Implementation of this measure would reduce the anticipated impact to less-than-significant levels.

Responsible Implementing Entity: CEDA Planning Division

Monitoring Action(s): Planning Division shall review project's proposed bicycle parking plan.

Monitoring Responsibility: CEDA, Planning Division

Monitoring Timeframe: Prior to Final PUD approval for each subsequent phase after Block T12.

Impact B.7: Project construction could result in temporary circulation impacts in the project vicinity. This would be a significant impact.

Mitigation Measure B.7: Prior to the start of excavation or construction on all project blocks, the project sponsor and construction contractor shall meet with appropriate City of Oakland agencies to determine traffic management strategies to reduce, to the maximum extent feasible, traffic congestion and the effects of parking demand by construction workers during construction

of this project and other nearby projects that could be simultaneously under construction. The project applicant shall develop a construction management plan for review and approval by the Planning and Zoning Division, the Building Services Division, and the Transportation Services Division.

Implementation of this measure would reduce the anticipated impact to less-than-significant levels.

The plan shall include at least the following items and requirements:

- A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes;
- Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures will occur;
- Location of construction staging areas for materials, equipment, and vehicles at an approved location;
- A process for responding to, and tracking, complaints pertaining to construction activity, including identification of an onsite complaint manager. The manager shall determine the cause of the complaints and shall take prompt action to correct the problem. Planning and Zoning shall be informed who the Manager is prior to the issuance of the first permit issued by Building Services;
- Provision for accommodation of pedestrian flow; and
- Provision for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces.

Responsible Implementing Entity: CEDA, Planning Division and Traffic Engineering Division

Monitoring Action(s): CEDA Traffic Engineering Division shall review project sponsor's construction-period traffic and parking plan.

Monitoring Responsibility: CEDA, Planning Division and Traffic Engineering Division

Monitoring Timeframe: Prior to issuance of building permits for each building.

Applicable 2000 FEIR Mitigation Measures—Air Quality (Amended and Restated)

Impact C.1: Fugitive dust generated by construction activities would be substantial and would increase PM-10 concentrations in the immediate project vicinity. This would be a significant impact.

Mitigation Measure C.1: During construction, the following measures required as part of Bay Area Air Quality Management District's (BAAQMD) basic and enhanced dust control procedures

required for construction sites. Implementation of this measure would ensure that construction-related air quality impacts would be less than significant.

Elements of this program shall include the following:

- Water all active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible;
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer);
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
- Sweep daily (with water sweepers using reclaimed water if possible) all paved access roads, parking areas and staging areas at construction sites;
- Sweep streets (with water sweepers using reclaimed water if possible) at the end of each day if visible soil material is carried onto adjacent paved roads;
- Limit the amount of the disturbed area at any one time, where feasible;
- Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph;
- Pave all roadways, driveways, sidewalks, etc. as soon as feasible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used;
- Replant vegetation in disturbed areas as quickly as feasible;
- Enclose, cover, water twice daily or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.);
- Limit traffic speeds on unpaved roads to 15 miles per hour; and
- Clean off the tires or tracks of all trucks and equipment leaving any unpaved construction areas.

In addition, to minimize construction equipment emissions during the construction period, the project sponsor shall require the construction contractor to:

- Demonstrate compliance with BAAQMD Regulation 2, Rule 1 (General Requirements) for all portable construction equipment subject to that rule. BAAQMD Regulation 2, Rule 1 requires an authority to construct and permit to operate certain types of portable equipment used for construction purposes (e.g., gasoline or diesel-powered engines used in conjunction with power generation, pumps, compressors, and cranes) unless such equipment complies with all applicable requirements of the "CAPCOA Portable Equipment Registration Rule" or with all applicable requirements of the Statewide Portable Equipment Registration Program. This exemption is provided in BAAQMD Rule 2-1-105.

- Perform low- NO_x tune-ups on all diesel-powered construction equipment greater than 50 horsepower (no more than 30 days prior to the start of use of that equipment). Periodic tune-ups (every 90 days) should be performed for such equipment used continuously during the construction period.

Responsible Implementing Entity: Oakland Community and Economic Development Agency (CEDA), Building Services Division

Monitoring Action(s): CEDA, Building Services Division shall conduct spot-checks as deemed necessary throughout construction period.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Throughout the construction period.

Impact C.2: The project would result in an increase in criteria pollutant emissions due to related motor vehicle trips and on-site area emissions sources. This would be a significant impact.

Mitigation Measure C.2a: Throughout operation of the City Center Project, the project sponsor or its successor shall implement Transportation Control Measures identified in the General Plan Land Use and Transportation Element EIR for each of the three office buildings (developed T9, proposed T12, and proposed T5/T6), including the following: implement a carpool/vanpool program; in coordination with AC Transit and City staff, construct transit facilities such as bus turnouts/bus bulbs, benches, and shelters along the road segments that define the development blocks; provide preferential parking and reduced/eliminated parking fees in the City Center Garage and City Center West Garage for carpool and vanpool vehicles; provide employer subsidy of transit passes (such as through the Metropolitan Transportation Commission's "Commuter Check" program); provide secure, weather-protected long-term bicycle parking at the proposed retail and office uses; provide showers and lockers for employees bicycling or walking to work; and provide secure short-term bicycle parking for retail customers. Implementation of these measures would reduce the anticipated impact to less-than-significant levels.

Responsible Implementing Entity: Oakland Community and Economic Development Agency (CEDA), Planning Division and Building Services Division

Monitoring Action(s): For physical improvements, CEDA Planning Division shall review and approve project plans to ensure required improvements are included; Building Services Division shall verify construction of required improvements during field inspection. For ongoing programs during building operation, Planning Division, Building Services Division, and/or Traffic Engineering Division shall monitor on a complaints-received basis.

Monitoring Responsibility: CEDA, Planning Division, Building Services Division; and Traffic Engineering Division

Monitoring Timeframe: Implementation will occur throughout operation of subsequent office buildings based on transportation plans to be submitted by the office developer prior to the issuance of an occupancy permit for the T12 and T5/6 buildings.

Mitigation Measure C.2b: The office developer (Shorenstein or its successor for the approved Block T5/6 site) shall implement Mitigation Measure B.5 (improvements to BART 12th Street Station exit gates) to facilitate use of BART by project workers. Implementation of these measures would reduce the anticipated impact to less-than-significant levels.

Responsible Implementing Entity: CEDA, Planning Division and Traffic Engineering Division; BART

Monitoring Action(s): CEDA, Traffic Engineering Division shall review project sponsor's transportation study prior to submittal to BART and shall participate, as necessary, in discussions with BART and project sponsor.

Monitoring Responsibility: CEDA, Planning Division and Traffic Engineering Division

Monitoring Timeframe: Prior to Final PUD approval for each subsequent phase after Block T12.

Implementation of the above measures would reduce the project-specific air quality impact to a less-than-significant level, but the cumulative effect would remain significant and unavoidable, as was the case in the 2000 FEIR.

Applicable 2000 FEIR Mitigation Measures—Noise (Amended and Restated)

Impact D.1: Construction activities would intermittently and temporarily generate noise levels above existing ambient levels in the project vicinity. This would be a significant impact.

Mitigation Measure D.1a: The project sponsor shall require construction contractors to limit standard construction activities as follows:

- a) Construction activities are limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, except that pile driving and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday.
- b) Any construction activity proposed to occur outside of the standard hours of 7:00 am to 7:00 pm Monday through Friday for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened and such construction activities shall only be allowed with the prior written authorization of the Building Services Division.
- c) Construction activity shall not occur on Saturdays, with the following possible exceptions:
 - i. Prior to the building being enclosed, requests for Saturday construction for special activities (such as concrete pouring which may require more continuous amounts of time), shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened. Such construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division.
 - ii. After the building is enclosed, requests for Saturday construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division, and only then within the interior of the building with the doors and windows closed.

- d) No extreme noise generating activities (greater than 90 dBA) shall be allowed on Saturdays, with no exceptions.
- e) No construction activity shall take place on Sundays or Federal holidays.
- f) Construction activities include but are not limited to: truck idling, moving equipment (including trucks, elevators, etc.) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.
- g) Applicant shall use temporary power poles instead of generators where feasible.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Building Services Division

Monitoring Action(s): Project sponsor shall prepare and submit for review and approval a site-specific construction noise control plan.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Review and approve noise control plan prior to the issuance of demolition, grading, excavation, or building permits. Monitor and respond to noise complaints throughout construction period.

Mitigation Measure D.1b: To reduce noise impacts due to construction, the project sponsor shall require construction contractors to implement a site-specific noise reduction program, subject to the Planning and Zoning Division and the Building Services Division review and approval, which includes the following measures:

- Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically attenuating shields or shrouds, wherever feasible);
- Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dB. External jackets on the tools themselves shall be used where feasible, and this could achieve a reduction of 5 dB. Quieter procedures shall be used such as drilling rather than impact equipment whenever feasible; and
- Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or other measures to the extent feasible.
- If feasible, the noisiest phases of construction shall be limited to less than 10 days at a time.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Building Services Division

Monitoring Action(s): Project sponsor shall prepare and submit for review and approval a site-specific construction noise control plan.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Review and approve noise control plan prior to the issuance of demolition, grading, excavation, or building permits. Monitor and respond to noise complaints throughout construction period.

Mitigation Measure D.1c: To further mitigate potential pier drilling, pile driving and/or other extreme noise generating construction impacts, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted for review and approval by the City to ensure that maximum feasible noise attenuation will be achieved. This plan shall be based on the final design of the project. A third-party peer review, paid for by the project sponsor, may be required to assist the City in evaluating the feasibility and effectiveness of the noise reduction plan submitted by the project sponsor. A special inspection deposit is required to ensure compliance with the noise reduction plan. The amount of the deposit shall be determined by the Building Official, and the deposit shall be submitted by the project sponsor concurrent with submittal of the noise reduction plan. The noise reduction plan shall include, but not be limited to, an evaluation of the following measures. These attenuation measures shall include as many of the following control strategies as feasible:

- Erect temporary plywood noise barriers around the construction site, particularly along the western boundary along Martin Luther King Jr. Way to shield the adjacent multi-family residential buildings;
- Implement "quiet" pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;
- Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings; and
- Monitor the effectiveness of noise attenuation measures by taking noise measurements.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Building Services Division

Monitoring Action(s): Project sponsor shall prepare and submit for review and approval a site-specific construction noise control plan.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Review and approve noise control plan prior to the issuance of demolition, grading, excavation, or building permits. Monitor and respond to noise complaints throughout construction period.

Mitigation Measure D.1d: Prior to the issuance of each building permit, along with the submission of construction documents, the project sponsor shall submit to the City Building

Services Division a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:

- A procedure for notifying the City Building Division staff and Oakland Police Department (during regular construction hours and off hours);
- A sign posted on-site pertaining to permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours);
- The designation of an on-site construction complaint and enforcement manager for the project;
- Notification of neighbors and occupants within 300 feet of the project construction area at least 30 days in advance of extreme noise-generating activities about the estimated duration of the activity; and
- A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Building Services Division

Monitoring Action(s): Project sponsor shall prepare and submit for review and approval a site-specific construction noise control plan.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Review and approve noise control plan prior to the issuance of demolition, grading, excavation, or building permits. Monitor and respond to noise complaints throughout construction period.

Implementation of Mitigation Measure D.1a through D.1d would reduce construction noise impacts to a less-than-significant level, and would ensure that the Modified Project would not result in any new or substantially more severe impacts than those identified in the 2000 FEIR.

The project would contribute to a significant and unavoidable cumulative impact related to exposure to traffic noise levels because anticipated future development could result in long-term traffic increases and could cumulatively increase noise levels that would exceed 3 decibels along certain nearby streets. No mitigation was identified, because it was found not to be feasible to reduce noise levels at existing uses—particularly residences—along nearby streets.

Applicable 2000 FEIR Mitigation Measures—Wind (Amended and Restated)

Impact F.2: The project could result in exceedances of the 36-mph “wind hazard” speed. This would be a significant impact.

Mitigation Measure F.2: The City shall require the project sponsors (Shorenstein, or its successor, as applicable) to incorporate, to the maximum extent feasible, specific design elements in the final siting and designs for the high rises that would reduce ground-level winds within the Downtown Showcase District.

Recommended modifications to the building masses as tested [i.e., 425-foot towers tested for the 1997 General Plan Land Use and Transportation Element EIR] to reduce winds would include some of the design features already included in the project, such as:

- placing the buildings back from the sidewalk, which would likely reduce winds at the sidewalk itself;
- the introduction of curved facades, which could reduce the tendency of the project structures to intercept upper-level winds and direct them down to ground level; and
- placing the tower atop a lower podium level, which would serve to interrupt winds traveling down the tower before they reach ground level.

In addition, the use of facade articulation, to break up winds along the building face, and horizontally projecting wind screens, to disturb the downward flow of wind, could further serve to reduce ground-level winds.

Despite the New Modified Project having incorporated certain aspects of the above measure into the project design that would likely reduce ground-level winds, compared to conditions without such design features, it cannot be stated with certainty that the New Modified Project would not result in exceedances of the 36-mph "wind hazard" speed, and therefore the impact would remain significant and unavoidable, for CEQA purposes, as it is possible that not all hazardous winds could be fully mitigated.

Responsible Implementing Entity: Oakland Community and Economic Development Agency (CEDA), Planning Division

Monitoring Action(s): The project sponsor shall conduct a design-specific wind impact evaluation in order to identify and to incorporate, to the maximum extent feasible, specific design elements in the final siting and designs for the high-rises that would reduce ground-level winds.

Monitoring Responsibility: CEDA, Planning Division

Monitoring Timeframe: Prior to approval of Final PUD for each phase of the City Center Project.

Applicable 2000 FEIR Mitigation Measures from the Initial Study

As stated in the Initial Study for the Original Project, implementation of the following measures would reduce any potentially significant impacts with respect to cultural resources, geology and soils, hydrology and water quality, and hazards and hazardous materials, to less-than-significant levels.

As the New Modified Project proposes a similar development program for Block T12, compared to the Original Project, and as no significant changes have occurred to the setting since certification of the 2000 FEIR and PUD in 2000, implementation of the New Modified Block T12 Project with applicable mitigation measures would have no new significant impact in these areas, nor would it increase the severity of previously identified impacts.

Geology and Soils (Restated)

Implementation of the following mitigation measures (Erosion and Sedimentation Control Plan) would reduce impacts to less-than-significant levels.

- The project sponsor shall obtain a grading permit if required by the Oakland Grading Regulations pursuant to Section 15.04.780 of the Oakland Municipal Code. The grading permit application shall include an erosion and sedimentation control plan for review and approval by the Building Services Division. The erosion and sedimentation control plan shall include all necessary measures to be taken to prevent excessive stormwater runoff or carrying by stormwater runoff of solid materials on to lands of adjacent property owners, public streets, or to creeks as a result of conditions created by grading operations. The plan shall include, but not be limited to, such measures as short-term erosion control planting, waterproof slope covering, check dams, interceptor ditches, benches, storm drains, dissipation structures, diversion dikes, retarding berms and barriers, devices to trap, store and filter out sediment, and stormwater retention basins. Off-site work by the project sponsor may be necessary. The project sponsor shall obtain permission or easements necessary for off-site work. There shall be a clear notation that the plan is subject to changes as changing conditions occur. Calculations of anticipated stormwater runoff and sediment volumes shall be included, if required by the Director of Development or designee. The plan shall specify that, after construction is complete, the project sponsor shall ensure that the storm drain system shall be inspected and that the project sponsor shall clear the system of any debris or sediment.; and
- The project sponsor shall implement the approved erosion and sedimentation plan. No grading shall occur during the wet weather season (October 15 through April 15) unless specifically authorized in writing by the Building Services Division.

Responsible Implementing Entity: Oakland Community and Economic Development Agency (CEDA), Planning and Building Services Divisions

Monitoring Action(s): CEDA, Planning Division shall review and approve landscaping plans; Building Services Division shall conduct spot-checks as deemed necessary throughout construction period.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Throughout construction period.

Hydrology and Water Quality (Amended and Restated)

Implementation of these measures would reduce potential impacts on hydrology and water quality to a less-than-significant level.

- The project sponsor shall be required to pay fees to compensate the City for the cost of any system upgrades required to accommodate increased runoff from the proposed project; and

- The project sponsor shall be required to grade unpaved areas to control surface drainage and redirect surface water away from areas of activity during excavation and construction; and
- **Stormwater Pollution Prevention Plan (SWPPP).** Prior to the start of grading activity, the project sponsor must obtain coverage under the General Construction Activity Storm Water Permit (General Construction Permit) issued by the State Water Resources Control Board (SWRCB). The project sponsor must file a notice of intent (NOI) with the SWRCB. The project sponsor will be required to prepare a stormwater pollution prevention plan (SWPPP) and submit the plan for review and approval by the Planning and Zoning Division and the Building Services Division. At a minimum, the SWPPP shall include a description of construction materials, practices, and equipment storage and maintenance; a list of pollutants likely to contact stormwater; site-specific erosion and sedimentation control practices; a list of provisions to eliminate or reduce discharge of materials to stormwater; *Best Management Practices (BMPs)*, and an *inspection and monitoring program*. Prior to the issuance of any construction-related permits, the project sponsor shall submit a copy of the SWPPP and evidence of approval of the SWPPP by the SWRCB to the Building Services Division. Implementation of the SWPPP shall start with the commencement of construction and continue through the completion of the project. After construction is completed, the project sponsor shall submit a notice of termination to the SWRCB.
- **Post-Construction Stormwater Pollution Management Plan.**
(<http://www.cleanwaterprogram.com>) Prior to issuance of a building permit (or other construction-related permit), the project sponsor shall comply with the requirements of Provision C.3 of the National Pollutant Discharge Elimination System (NPDES) permit issued to the Alameda Countywide Clean Water Program. The project sponsor shall submit with the application for a building permit (or other construction-related permit) a completed Stormwater Supplemental Form for the Building Services Division. The project drawings submitted for the building permit (or other construction-related permit) shall contain a stormwater pollution management plan, for review and approval by the City, to limit the discharge of pollutants in stormwater after construction of the project to the maximum extent practicable.
 - a) The post-construction stormwater pollution management plan shall include and identify the following:
 - i. All proposed impervious surface on the site;
 - ii. Anticipated directional flows of on-site stormwater runoff; and
 - iii. Site design measures to reduce the amount of impervious surface area and directly connected impervious surfaces; and
 - iv. Source control measures to limit the potential for stormwater pollution; and
 - v. Stormwater treatment measures to remove pollutants from stormwater runoff.
 - b) The following additional information shall be submitted with the post-construction stormwater pollution management plan:
 - i. Detailed hydraulic sizing calculations for each stormwater treatment measure proposed; and
 - ii. Pollutant removal information demonstrating that any proposed ~~manufactured/mechanical (i.e., non-landscape-based) stormwater treatment~~ measure, when not used in combination with a landscape-based treatment measure, is capable of removing the range of pollutants typically removed by landscape-based treatment measures.

All proposed stormwater treatment measures shall incorporate appropriate planting materials for stormwater treatment (for landscape-based treatment measures) and shall be designed with considerations for vector/mosquito control. Proposed planting materials for all proposed landscape-based stormwater treatment measures shall be included on the landscape and irrigation plan for the project. The project sponsor is not required to include on-site stormwater treatment measures in the post-construction stormwater pollution management plan if he or she secures approval from Planning and Zoning of a proposal that demonstrates compliance with the requirements of the City's Alternative Compliance Program.

Prior to final permit inspection, the project sponsor shall implement the approved stormwater pollution management plan.

- **Maintenance Agreement for Stormwater Treatment Measures.** Prior to the final zoning inspection, the project sponsor shall enter into the "Standard City of Oakland Stormwater Treatment Measures Maintenance Agreement," in accordance with Provision C.3.e of the NPDES permit, which provides, in part, for the following:
 - a) The applicant accepting responsibility for the adequate installation/construction, operation, maintenance, inspection, and reporting of any on-site stormwater treatment measures being incorporated into the project until the responsibility is legally transferred to another entity; and
 - b) Legal access to the on-site stormwater treatment measures for representatives of the City, the local vector control district, and staff of the Regional Water Quality Control Board, San Francisco Region, for the purpose of verifying the implementation, operation, and maintenance of the on-site stormwater treatment measures and to take corrective action if necessary. The agreement shall be recorded at the County Recorder's Office at the applicant's expense.

Responsible Implementing Entity: Oakland Community and Economic Development Agency (CEDA); Building Services Division; Oakland Public Works Agency

Monitoring Action(s): CEDA, Building Services Division shall conduct spot-checks as deemed necessary throughout construction period.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Throughout construction period.

Cultural Resources (Amended and Restated)

The following mitigation measures regarding cultural (archaeological) resources replace the measures included in the 2000 FEIR, consistent with the City of Oakland's current practice; implementation of these measures would reduce potential impacts on archaeological resources to a less-than-significant level.

- Pursuant to CEQA Guidelines section 15064.5 (f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore, in the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project sponsor and/or lead agency shall consult with a qualified archaeologist or paleontologist to assess the significance of the find. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified archaeologist would meet to determine the appropriate avoidance

measures or other appropriate measure, with the ultimate determination to be made by the City of Oakland. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and a report prepared by the qualified archaeologist according to current professional standards.

- In considering any suggested measure proposed by the consulting archaeologist in order to mitigate impacts to historical resources or unique archaeological resources, the project sponsor shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while measure for historical resources or unique archaeological resources is carried out.
- Should an archaeological artifact or feature be discovered on-site during project construction, all activities within a 50-foot radius of the find would be halted until the findings can be fully investigated by a qualified archaeologist to evaluate the find and assess the significance of the find according to the CEQA definition of a historical or unique archaeological resource. If the deposit is determined to be significant, the project sponsor and the qualified archaeologist shall meet to determine the appropriate avoidance measures or other appropriate measure, subject to approval by the City of Oakland, which shall assure implementation of appropriate measure measures recommended by the archaeologist. Should archaeologically-significant materials be recovered, the qualified archaeologist would recommend appropriate analysis and treatment, and would prepare a report on the findings for submittal to the Northwest Information Center.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA); Planning Division

Monitoring Action(s): Project sponsor shall contact qualified archaeologist in the event that artifacts are discovered during construction. Archaeologist shall consult with Planning Division regarding any such discovery and shall undertake data recovery as warranted based on the nature of the discovery.

Monitoring Responsibility: CEDA, Planning Division

Monitoring Timeframe: Direct data recovery, as applicable, in the event that artifacts are discovered during the construction period.

- In the event that human skeletal remains are uncovered at the project site during construction or ground-breaking activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and follow the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius until appropriate arrangements are made.

If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities.

Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

- In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate

Paleontology standards (SVP 1995,1996)). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find under the criteria set forth in Section 15064.5 of the CEQA Guidelines. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA); Planning Division; Alameda County Coroner; Native American Heritage Commission

Monitoring Action(s): Project sponsor shall contact coroner in the event that human remains are encountered. Agencies shall respond to any such discovery as applicable.

Monitoring Responsibility: CEDA; Planning Division; Alameda County Coroner; Native American Heritage Commission

Monitoring Timeframe: Throughout construction period

Hazards and Hazardous Materials

Implementation of these measures would reduce potential impacts on hazards and hazardous materials to a less-than-significant level.

- **Hazards Best Management Practices.** Prior to the commencement of demolition, grading, or construction, the project sponsor and construction contractor shall ensure that construction best management practices are implemented as part of construction to minimize the potential negative effects to groundwater and soils. These shall include the following:
 - a) Follow manufacture's recommendations on use, storage, and disposal of chemical products used in construction;
 - b) *Avoid overtopping construction equipment fuel gas tanks;*
 - c) *During routine maintenance of construction equipment, properly contain and remove grease and oils;*
 - d) Properly dispose of discarded containers of fuels and other chemicals.
 - e) Ensure that construction would not have a significant impact on the environment or pose a substantial health risk to construction workers and the occupants of the proposed development. Soil sampling and chemical analyses of samples shall be performed to determine the extent of potential contamination beneath all USTs, elevator shafts, clarifiers, and subsurface hydraulic lifts when on-site demolition, or construction activities would potentially affect a particular development or building.
 - f) If soil, groundwater or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the project sponsor shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the project sponsor shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notification of regulatory agency(ies) and implementation of the actions described in Standard Conditions of

Approval 50 and 52, as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA); Building Services Division; Occupational Safety and Health Administration (OSHA)

Monitoring Action(s): CEDA, Planning Division shall review and approve health and safety plans; Building Services Division shall conduct spot-checks as deemed necessary throughout the demolition and construction period.

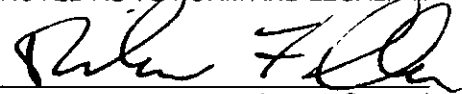
Monitoring Responsibility: CEDA; Planning Division; Building Services Division

Monitoring Timeframe: Throughout demolition and construction period.

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2010 JUL 15 PM 5:11

APPROVED AS TO FORM AND LEGALITY:



Agency Counsel

City Attorney

OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

ORDINANCE AUTHORIZING THE CITY OF OAKLAND TO ENTER INTO A THIRTEENTH AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT WITH OAKLAND T12 LLC, REGARDING THE CITY CENTER PROJECT TO EXTEND THE DATE TO COMPLETE AN OFFICE DEVELOPMENT ON BLOCK T-12 OF THE CITY CENTER PROJECT BY 36 MONTHS CHANGING IT FROM APRIL 12, 2012 TO APRIL 12, 2015, WITH TWO ADDITIONAL EXTENSION OPTIONS OF 12 MONTHS EACH

WHEREAS, the City of Oakland ("City"), the Redevelopment Agency of the City of Oakland ("Agency") and Oakland T-12 LLC ("Oakland T12") are parties to a Disposition and Development Agreement ("DDA"), as amended, whereby Oakland T12 is the master developer of the twelve block area in the Central District Urban Renewal Area commonly referred to as the City Center Project; and

WHEREAS, on December 7, 2007, pursuant to the terms of the Twelfth Amendment to the DDA, the Agency sold Block T-12 ("Property", a legal description of which is attached as Exhibit A) to Oakland T12 for development of an office development ("T-12 Project"); and

WHEREAS, Oakland T12 started T-12 Project construction in October of 2008 and, per the terms of the Twelfth Amendment to the DDA, has to complete the T-12 Project by April of 2012; and

WHEREAS, Oakland T12 suspended construction on the T-12 Project because of the national recession and rising vacancies in the regional office real estate market, and requested an extension of the date to complete the T-12 Project; and

WHEREAS, the parties to the DDA desire to further amend certain terms of the DDA to (1) extend the date to complete the T-12 Project by 36 months (the "Initial Extension"), changing it from April 2012 to April 2015, with two additional extension options of 12 months each (the "Extension Options") for up to five years, and (2) accept

payment of \$300,000 from Oakland T12 to the Agency for the Initial Extension, and payments of \$300,000 and \$400,000, respectively, for each Extension Option, if necessary, to complete the T-12 Project; and

WHEREAS, the City is the Lead Agency for this T-12 Project for purposes of environmental review under the California Environmental Quality Act of 1970 ("CEQA"); and

WHEREAS, An Environmental Impact Report ("EIR") was certified in 2000 for the City Center Project and three addenda were subsequently completed (in 2003, 2005 and 2007) in compliance with the California Environmental Quality Act (CEQA). There are no changes to the Project, new information, or changes in circumstances that would result in new significant environmental impacts or substantially more severe impacts from those previously identified in the 2000 EIR and later addenda. Therefore, no further environmental evaluation is required, and no Supplemental/Subsequent EIR is needed pursuant to State CEQA Guidelines Section 15162 et. seq. Moreover, the Mitigation Monitoring and Reporting Program approved in 2007 is still applicable; and

WHEREAS, as required by Health and Safety Code 33431, a notice of the public hearing regarding the Thirteenth Amendment to the DDA was given by publication at least once a week for not less than two weeks prior to the public hearing in a newspaper of general circulation in Alameda County; and

WHEREAS, the City has made available to the public for inspection, no later than the first date of publication of the notice for the hearing, a copy of the proposed Thirteenth Amendment to the DDA; and

WHEREAS, as required by Health and Safety Code Section 33431, notice of the public hearing regarding the Thirteenth Amendment to the DDA was given by publication at least once a week for not less than two weeks prior to the public hearing in a newspaper of general circulation in Alameda County; and

WHEREAS, before this Thirteenth Amendment to the DDA may be executed by the Agency, the City shall have approved the execution of the Thirteenth Amendment to the DDA by ordinance after a public hearing; now, therefore, be it

RESOLVED: That the City hereby authorizes the City Administrator or his designee to negotiate and execute a Thirteenth Amendment to the DDA with Oakland T12 to(1) extend the date to complete the T-12 Project by 36 months changing it from April 2012 to April 2015, with two additional extension options of 12 months each for up to five years, and (2) accept payment of \$300,000 from Oakland T12 to the Agency for the Initial Extension, and payments of \$300,000 and \$400,000, respectively, for each additional 12-month Extension Option to complete the T-12 Project; and be it further

RESOLVED: That the City hereby finds and determines: (1) that it has independently reviewed and considered the information contained in the previously

certified EIR and Addendum #3, and the EIR and Addendum #3 comply with CEQA and the CEQA Guidelines' requirements for analysis of the Project's environmental effects and mitigation measures; (2) that none of the changes to the Project, or circumstances under which it will be undertaken, or new information require preparation of a subsequent or supplemental EIR; and (3) that the Mitigation Monitoring and Reporting Program for the Project is hereby (re) adopted as specified in the attached Exhibit B. The Environmental Review Officer shall cause to be filed a Notice of Determination; and be it further

RESOLVED: That the City Administrator or his designee is authorized to negotiate and execute a Thirteenth Amendment to the DDA with Oakland T12 as set forth hereinabove and to take any other action with respect thereto consistent with this Ordinance and its basic purpose, provided that the City shall also have approved an ordinance approving the execution of the Thirteenth Amendment to the DDA; and be it further

RESOLVED: That any and all documents necessary to effectuate the intent of this Ordinance shall be reviewed and approved as to form by the City Attorney prior to execution by the City Administrator or his designee; and be it further

RESOLVED: That the record before this Council relating to this Ordinance includes, without limitation, the following:

1. the application, including all accompanying maps and papers;
2. all relevant plans and maps;
3. all final staff reports, decision letters and other documentation and information produced by or on behalf of the City;
4. all oral and written evidence received by the City staff, Planning Commission and City Council before and during the public hearings on the application;
5. all matters of common knowledge and all official enactments and acts of the City, such as (a) the General Plan and the General Plan Conformity Guidelines; (b) the Oakland Municipal Code, including, without limitation, the Oakland real estate regulations, Oakland Fire Code; (c) Oakland Planning Code; (d) other applicable City policies and regulations; and (e) all applicable state and federal laws, rules and regulations; and be it further

RESOLVED: That the custodians and locations of the documents or other materials which constitute the record of proceedings upon which the City's decision is based are respectively: (a) the Community and Economic Development Agency, Redevelopment Division, 250 Frank H. Ogawa Plaza, 5th Floor, Oakland; (b) the Community and Economic Development Agency, Planning Division, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland; and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2010

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN,
REID AND CHAIRPERSON BRUNNER

NOES-

PRESIDENT

ABSENT-

ABSTENTION-

ATTEST:

LATONDA SIMMONS
Clerk
of the City of Oakland

Exhibit A

LEGAL DESCRIPTION

Block T-12

Real Property in the City of Oakland, County of Alameda, State of California, described as follows:

Lots 1 to 28 inclusive, Block 155 Kellersberger's Map of Oakland, filed in Book 7 of Maps, Page 3, Records of Alameda County.

APN: 002-0027-007

EXHIBIT B

MITIGATION MONITORING PROGRAM – BLOCK T-12

MITIGATION MONITORING AND REPORTING PROGRAM

Oakland City Center Project Addendum #3

Several mitigation measures identified in the 2000 FEIR have since been adopted by the City as Standard Conditions of Approval for all projects. However, these measures, where applicable to the New Modified Block T12 Project, have been retained here as mitigation for the purposes of clarity and simplicity, but revised to reflect current language.

Applicable 2000 FEIR Mitigation Measures—Traffic, Circulation and Parking (Amended and Restated)

The 2000 FEIR identified mitigation measures (Mitigation Measures B.1, B.4, B.5, B.6 and B.7) to address significant impacts resulting from the Original Project. Impacts B.2 and B.3, identified in the 2000 FEIR were found to result in less-than-significant impacts and therefore do not have any associated mitigation measures.

The following presents mitigation measures identified in the 2000 FEIR, amended and restated, that are applicable to the New Modified Block T12 Project.

Impact B.1: The project would result in increases in traffic delay in the downtown. In particular, the project would result in a deteriorated level of service at the intersection of 12th and Brush Streets in the a.m. peak hour. This would be a significant impact.

Mitigation Measure B.1a: At 12th and Brush Streets, the Block T12 project sponsor, along with the developer of Block T5/6 (Shorenstein or its successor) shall work with Caltrans and coordinate with the City to consider various improvement options, which could include signal timing improvements or additional lanes on the ramp. The developer shall fund its fair share of any required improvements. Because implementation of this measure requires consultation with Caltrans, the City cannot ensure that the mitigation measure could be implemented and the anticipated impact is therefore considered to be significant and unavoidable.

Responsible Implementing Entity: CEDA, Traffic Engineering Division (formerly part of Public Works Agency); Caltrans

Monitoring Action(s): CEDA, Traffic Engineering Division to work with Caltrans to determine analyze feasible improvement options and determine project share of cost.

Monitoring Responsibility: CEDA, Planning Division and Traffic Engineering Division

Monitoring Timeframe: Prior to issuance of certificate of occupancy for last building.

Impact B.5: Project ridership on AC Transit could be accommodated. Project ridership on BART could be accommodated on the trains, but is likely to exceed the capacity of the 12th Street station at project buildout. This would be a significant impact.

Mitigation Measure B.5: The project sponsor shall conduct a study at each phase of project buildout subsequent to Building T12, subject to the review and approval of the City Traffic

Engineering Division, to determine whether there is adequate exiting capacity at the 12th Street station. The Block T5/6 developer shall work with BART to assure that with buildout of the project (all four sites), adequate exit fare gates are available at the 11th Street exits in the a.m. peak hour so that the maximum passenger wait does not exceed two minutes to be processed through the fare gates. This may require the addition of one or more new fare gates at the 11th Street exit to the station. Implementation of this measure would reduce the anticipated impact to less-than-significant levels.

Responsible Implementing Entity: CEDA, Planning Division and Traffic Engineering Division; BART

Monitoring Action(s): CEDA, Traffic Engineering Division shall review project sponsor's transportation study prior to submittal to BART and shall participate, as necessary, in discussions with BART and project sponsor.

Monitoring Responsibility: CEDA, Planning Division and Traffic Engineering Division

Monitoring Timeframe: Prior to Final PUD approval for each subsequent phase after Block T12.

Impact B.6: The project is likely to increase the demand for bicycle parking in the City Center area, and may be inconsistent with the suggested bicycle parking space recommendations indicated in the Oakland Bicycle Master Plan. This would be a significant impact.

Mitigation Measure B.6: The project shall comply with the draft bicycle parking requirements of the City of Oakland, and unless determined by the Planning Director to be infeasible, provide on-site one short-term bicycle parking space for every 5,000 square feet of net retail space (with a minimum of two spaces) and for every 20,000 square feet of net office space (with a minimum of two spaces); and one long-term bicycle parking space for every 12,000 square feet of net retail space (with a minimum of two spaces) and for every 10,000 square feet of net office space (with a minimum of two spaces). Implementation of this measure would reduce the anticipated impact to less-than-significant levels.

Responsible Implementing Entity: CEDA Planning Division

Monitoring Action(s): Planning Division shall review project's proposed bicycle parking plan.

Monitoring Responsibility: CEDA, Planning Division

Monitoring Timeframe: Prior to Final PUD approval for each subsequent phase after Block T12.

Impact B.7: Project construction could result in temporary circulation impacts in the project vicinity. This would be a significant impact.

Mitigation Measure B.7: Prior to the start of excavation or construction on all project blocks, the project sponsor and construction contractor shall meet with appropriate City of Oakland agencies to determine traffic management strategies to reduce, to the maximum extent feasible, traffic congestion and the effects of parking demand by construction workers during construction

of this project and other nearby projects that could be simultaneously under construction. The project applicant shall develop a construction management plan for review and approval by the Planning and Zoning Division, the Building Services Division, and the Transportation Services Division.

Implementation of this measure would reduce the anticipated impact to less-than-significant levels.

The plan shall include at least the following items and requirements:

- A set of comprehensive traffic control measures, including scheduling of major truck trips and deliveries to avoid peak traffic hours, detour signs if required, lane closure procedures, signs, cones for drivers, and designated construction access routes;
- Notification procedures for adjacent property owners and public safety personnel regarding when major deliveries, detours, and lane closures will occur;
- Location of construction staging areas for materials, equipment, and vehicles at an approved location;
- A process for responding to, and tracking, complaints pertaining to construction activity, including identification of an onsite complaint manager. The manager shall determine the cause of the complaints and shall take prompt action to correct the problem. Planning and Zoning shall be informed who the Manager is prior to the issuance of the first permit issued by Building Services;
- Provision for accommodation of pedestrian flow; and
- Provision for parking management and spaces for all construction workers to ensure that construction workers do not park in on-street spaces.

Responsible Implementing Entity: CEDA, Planning Division and Traffic Engineering Division

Monitoring Action(s): CEDA Traffic Engineering Division shall review project sponsor's construction-period traffic and parking plan.

Monitoring Responsibility: CEDA, Planning Division and Traffic Engineering Division

Monitoring Timeframe: Prior to issuance of building permits for each building.

Applicable 2000 FEIR Mitigation Measures—Air Quality (Amended and Restated)

Impact C.1: Fugitive dust generated by construction activities would be substantial and would increase PM-10 concentrations in the immediate project vicinity. This would be a significant impact.

Mitigation Measure C.1: During construction, the following measures required as part of Bay Area Air Quality Management District's (BAAQMD) basic and enhanced dust control procedures

required for construction sites. Implementation of this measure would ensure that construction-related air quality impacts would be less than significant.

Elements of this program shall include the following:

- Water all active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever possible;
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer);
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
- Sweep daily (with water sweepers using reclaimed water if possible) all paved access roads, parking areas and staging areas at construction sites;
- Sweep streets (with water sweepers using reclaimed water if possible) at the end of each day if visible soil material is carried onto adjacent paved roads;
- Limit the amount of the disturbed area at any one time, where feasible;
- Suspend excavation and grading activity when winds (instantaneous gusts) exceed 25 mph;
- Pave all roadways, driveways, sidewalks, etc. as soon as feasible. In addition, building pads should be laid as soon as possible after grading unless seeding or soil binders are used;
- Replant vegetation in disturbed areas as quickly as feasible;
- Enclose, cover, water twice daily or apply (non-toxic) soil stabilizers to exposed stockpiles (dirt, sand, etc.);
- Limit traffic speeds on unpaved roads to 15 miles per hour; and
- Clean off the tires or tracks of all trucks and equipment leaving any unpaved construction areas.

In addition, to minimize construction equipment emissions during the construction period, the project sponsor shall require the construction contractor to:

- Demonstrate compliance with BAAQMD Regulation 2, Rule 1 (General Requirements) for all portable construction equipment subject to that rule. BAAQMD Regulation 2, Rule 1 requires an authority to construct and permit to operate certain types of portable equipment used for construction purposes (e.g., gasoline or diesel-powered engines used in ~~conjunction with power-generation, pumps, compressors, and cranes~~) unless such equipment complies with all applicable requirements of the "CAPCOA Portable Equipment Registration Rule" or with all applicable requirements of the Statewide Portable Equipment Registration Program. This exemption is provided in BAAQMD Rule 2-1-105.

- Perform low-NO_x tune-ups on all diesel-powered construction equipment greater than 50 horsepower (no more than 30 days prior to the start of use of that equipment). Periodic tune-ups (every 90 days) should be performed for such equipment used continuously during the construction period.

Responsible Implementing Entity: Oakland Community and Economic Development Agency (CEDA), Building Services Division

Monitoring Action(s): CEDA, Building Services Division shall conduct spot-checks as deemed necessary throughout construction period.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Throughout the construction period.

Impact C.2: The project would result in an increase in criteria pollutant emissions due to related motor vehicle trips and on-site area emissions sources. This would be a significant impact.

Mitigation Measure C.2a: Throughout operation of the City Center Project, the project sponsor or its successor shall implement Transportation Control Measures identified in the General Plan Land Use and Transportation Element EIR for each of the three office buildings (developed T9, proposed T12, and proposed T5/T6), including the following: implement a carpool/vanpool program; in coordination with AC Transit and City staff, construct transit facilities such as bus turnouts/bus bulbs, benches, and shelters along the road segments that define the development blocks; provide preferential parking and reduced/eliminated parking fees in the City Center Garage and City Center West Garage for carpool and vanpool vehicles; provide employer subsidy of transit passes (such as through the Metropolitan Transportation Commission's "Commuter Check" program); provide secure, weather-protected long-term bicycle parking at the proposed retail and office uses; provide showers and lockers for employees bicycling or walking to work; and provide secure short-term bicycle parking for retail customers. Implementation of these measures would reduce the anticipated impact to less-than-significant levels.

Responsible Implementing Entity: Oakland Community and Economic Development Agency (CEDA), Planning Division and Building Services Division

Monitoring Action(s): For physical improvements, CEDA Planning Division shall review and approve project plans to ensure required improvements are included; Building Services Division shall verify construction of required improvements during field inspection. For ongoing programs during building operation, Planning Division, Building Services Division, and/or Traffic Engineering Division shall monitor on a complaints-received basis.

Monitoring Responsibility: CEDA, Planning Division, Building Services Division; and Traffic Engineering Division

Monitoring Timeframe: Implementation will occur throughout operation of subsequent office buildings based on transportation plans to be submitted by the office developer prior to the issuance of an occupancy permit for the T12 and T5/6 buildings.

Mitigation Measure C.2b: The office developer (Shorenstein or its successor for the approved Block T5/6 site) shall implement Mitigation Measure B.5 (improvements to BART 12th Street Station exit gates) to facilitate use of BART by project workers. Implementation of these measures would reduce the anticipated impact to less-than-significant levels.

Responsible Implementing Entity: CEDA, Planning Division and Traffic Engineering Division; BART

Monitoring Action(s): CEDA, Traffic Engineering Division shall review project sponsor's transportation study prior to submittal to BART and shall participate, as necessary, in discussions with BART and project sponsor.

Monitoring Responsibility: CEDA, Planning Division and Traffic Engineering Division

Monitoring Timeframe: Prior to Final PUD approval for each subsequent phase after Block T12.

Implementation of the above measures would reduce the project-specific air quality impact to a less-than-significant level, but the cumulative effect would remain significant and unavoidable, as was the case in the 2000 FEIR.

Applicable 2000 FEIR Mitigation Measures—Noise (Amended and Restated)

Impact D.1: Construction activities would intermittently and temporarily generate noise levels above existing ambient levels in the project vicinity. This would be a significant impact.

Mitigation Measure D.1a: The project sponsor shall require construction contractors to limit standard construction activities as follows:

- a) Construction activities are limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, except that pile driving and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday.
- b) Any construction activity proposed to occur outside of the standard hours of 7:00 am to 7:00 pm Monday through Friday for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened and such construction activities shall only be allowed with the prior written authorization of the Building Services Division.
- c) Construction activity shall not occur on Saturdays, with the following possible exceptions:
 - i. Prior to the building being enclosed, requests for Saturday construction for special activities (such as concrete pouring which may require more continuous amounts of time), shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of resident's preferences for whether the activity is acceptable if the overall duration of construction is shortened. Such construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division.
 - ii. ~~After the building is enclosed, requests for Saturday construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division, and only then within the interior of the building with the doors and windows closed.~~

- d) No extreme noise generating activities (greater than 90 dBA) shall be allowed on Saturdays, with no exceptions.
- e) No construction activity shall take place on Sundays or Federal holidays.
- f) Construction activities include but are not limited to: truck idling, moving equipment (including trucks, elevators, etc.) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.
- g) Applicant shall use temporary power poles instead of generators where feasible.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Building Services Division

Monitoring Action(s): Project sponsor shall prepare and submit for review and approval a site-specific construction noise control plan.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Review and approve noise control plan prior to the issuance of demolition, grading, excavation, or building permits. Monitor and respond to noise complaints throughout construction period.

Mitigation Measure D.1b: To reduce noise impacts due to construction, the project sponsor shall require construction contractors to implement a site-specific noise reduction program, subject to the Planning and Zoning Division and the Building Services Division review and approval, which includes the following measures:

- Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically attenuating shields or shrouds, wherever feasible);
- Impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered wherever possible to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dB. External jackets on the tools themselves shall be used where feasible, and this could achieve a reduction of 5 dB. Quieter procedures shall be used such as drilling rather than impact equipment whenever feasible; and
- Stationary noise sources shall be located as far from adjacent receptors as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or other measures to the extent feasible.
- If feasible, the noisiest phases of construction shall be limited to less than 10 days at a time.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Building Services Division

Monitoring Action(s): Project sponsor shall prepare and submit for review and approval a site-specific construction noise control plan.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Review and approve noise control plan prior to the issuance of demolition, grading, excavation, or building permits. Monitor and respond to noise complaints throughout construction period.

Mitigation Measure D.1c: To further mitigate potential pier drilling, pile driving and/or other extreme noise generating construction impacts, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted for review and approval by the City to ensure that maximum feasible noise attenuation will be achieved. This plan shall be based on the final design of the project. A third-party peer review, paid for by the project sponsor, may be required to assist the City in evaluating the feasibility and effectiveness of the noise reduction plan submitted by the project sponsor. A special inspection deposit is required to ensure compliance with the noise reduction plan. The amount of the deposit shall be determined by the Building Official, and the deposit shall be submitted by the project sponsor concurrent with submittal of the noise reduction plan. The noise reduction plan shall include, but not be limited to, an evaluation of the following measures. These attenuation measures shall include as many of the following control strategies as feasible:

- Erect temporary plywood noise barriers around the construction site, particularly along the western boundary along Martin Luther King Jr. Way to shield the adjacent multi-family residential buildings;
- Implement "quiet" pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;
- Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings; and
- Monitor the effectiveness of noise attenuation measures by taking noise measurements.

Responsible Implementing Entity: Project Sponsor, Oakland Community and Economic Development Agency (CEDA), Building Services Division

Monitoring Action(s): Project sponsor shall prepare and submit for review and approval a site-specific construction noise control plan.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Review and approve noise control plan prior to the issuance of demolition, grading, excavation, or building permits. Monitor and respond to noise complaints throughout construction period.

Mitigation Measure D.1d: Prior to the issuance of each building permit, along with the submission of construction documents, the project sponsor shall submit to the City Building

Services Division a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:

- A procedure for notifying the City Building Division staff and Oakland Police Department (during regular construction hours and off hours);
- A sign posted on-site pertaining to permitted construction days and hours and complaint procedures and who to notify in the event of a problem. The sign shall also include a listing of both the City and construction contractor's telephone numbers (during regular construction hours and off-hours);
- The designation of an on-site construction complaint and enforcement manager for the project;
- Notification of neighbors and occupants within 300 feet of the project construction area at least 30 days in advance of extreme noise-generating activities about the estimated duration of the activity; and
- A preconstruction meeting shall be held with the job inspectors and the general contractor/on-site project manager to confirm that noise mitigation and practices (including construction hours, neighborhood notification, posted signs, etc.) are completed.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA), Building Services Division

Monitoring Action(s): Project sponsor shall prepare and submit for review and approval a site-specific construction noise control plan.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Review and approve noise control plan prior to the issuance of demolition, grading, excavation, or building permits. Monitor and respond to noise complaints throughout construction period.

Implementation of Mitigation Measure D.1a through D.1d would reduce construction noise impacts to a less-than-significant level, and would ensure that the Modified Project would not result in any new or substantially more severe impacts than those identified in the 2000 FEIR.

The project would contribute to a significant and unavoidable cumulative impact related to exposure to traffic noise levels because anticipated future development could result in long-term traffic increases and could cumulatively increase noise levels that would exceed 3 decibels along certain nearby streets. No mitigation was identified, because it was found not to be feasible to reduce noise levels at existing uses—particularly residences—along nearby streets.

Applicable 2000 FEIR Mitigation Measures—Wind (Amended and Restated)

Impact F.2: The project could result in exceedances of the 36-mph “wind hazard” speed. This would be a significant impact.

Mitigation Measure F.2: The City shall require the project sponsors (Shorenstein, or its successor, as applicable) to incorporate, to the maximum extent feasible, specific design elements in the final siting and designs for the high rises that would reduce ground-level winds within the Downtown Showcase District.

Recommended modifications to the building masses as tested [i.e., 425-foot towers tested for the 1997 General Plan Land Use and Transportation Element EIR] to reduce winds would include some of the design features already included in the project, such as:

- placing the buildings back from the sidewalk, which would likely reduce winds at the sidewalk itself;
- the introduction of curved facades, which could reduce the tendency of the project structures to intercept upper-level winds and direct them down to ground level; and
- placing the tower atop a lower podium level, which would serve to interrupt winds traveling down the tower before they reach ground level.

In addition, the use of facade articulation, to break up winds along the building face, and horizontally projecting wind screens, to disturb the downward flow of wind, could further serve to reduce ground-level winds.

Despite the New Modified Project having incorporated certain aspects of the above measure into the project design that would likely reduce ground-level winds, compared to conditions without such design features, it cannot be stated with certainty that the New Modified Project would not result in exceedances of the 36-mph "wind hazard" speed, and therefore the impact would remain significant and unavoidable, for CEQA purposes, as it is possible that not all hazardous winds could be fully mitigated.

Responsible Implementing Entity: Oakland Community and Economic Development Agency (CEDA), Planning Division

Monitoring Action(s): The project sponsor shall conduct a design-specific wind impact evaluation in order to identify and to incorporate, the maximum extent feasible, specific design elements in the final siting and designs for the high-rises that would reduce ground-level winds.

Monitoring Responsibility: CEDA, Planning Division

Monitoring Timeframe: Prior to approval of Final PUD for each phase of the City Center Project.

Applicable 2000 FEIR Mitigation Measures from the Initial Study

As stated in the Initial Study for the Original Project, implementation of the following measures would reduce any potentially significant impacts with respect to cultural resources, geology and soils, hydrology and water quality, and hazards and hazardous materials, to less-than-significant levels.

As the New Modified Project proposes a similar development program for Block T12, compared to the Original Project, and as no significant changes have occurred to the setting since certification of the 2000 FEIR and PUD in 2000, implementation of the New Modified Block T12 Project with applicable mitigation measures would have no new significant impact in these areas, nor would it increase the severity of previously identified impacts.

Geology and Soils (Restated)

Implementation of the following mitigation measures (Erosion and Sedimentation Control Plan) would reduce impacts to less-than-significant levels.

- The project sponsor shall obtain a grading permit if required by the Oakland Grading Regulations pursuant to Section 15.04.780 of the Oakland Municipal Code. The grading permit application shall include an erosion and sedimentation control plan for review and approval by the Building Services Division. The erosion and sedimentation control plan shall include all necessary measures to be taken to prevent excessive stormwater runoff or carrying by stormwater runoff of solid materials on to lands of adjacent property owners, public streets, or to creeks as a result of conditions created by grading operations. The plan shall include, but not be limited to, such measures as short-term erosion control planting, waterproof slope covering, check dams, interceptor ditches, benches, storm drains, dissipation structures, diversion dikes, retarding berms and barriers, devices to trap, store and filter out sediment, and stormwater retention basins. Off-site work by the project sponsor may be necessary. The project sponsor shall obtain permission or easements necessary for off-site work. There shall be a clear notation that the plan is subject to changes as changing conditions occur. Calculations of anticipated stormwater runoff and sediment volumes shall be included, if required by the Director of Development or designee. The plan shall specify that, after construction is complete, the project sponsor shall ensure that the storm drain system shall be inspected and that the project sponsor shall clear the system of any debris or sediment.; and
- The project sponsor shall implement the approved erosion and sedimentation plan. No grading shall occur during the wet weather season (October 15 through April 15) unless specifically authorized in writing by the Building Services Division.

Responsible Implementing Entity: Oakland Community and Economic Development Agency (CEDA); Planning and Building Services Divisions

Monitoring Action(s): CEDA, Planning Division shall review and approve landscaping plans; Building Services Division shall conduct spot-checks as deemed necessary throughout construction period.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Throughout construction period.

Hydrology and Water Quality (Amended and Restated)

Implementation of these measures would reduce potential impacts on hydrology and water quality to a less-than-significant level.

- The project sponsor shall be required to pay fees to compensate the City for the cost of any system upgrades required to accommodate increased runoff from the proposed project; and

- The project sponsor shall be required to grade unpaved areas to control surface drainage and redirect surface water away from areas of activity during excavation and construction; and
- **Stormwater Pollution Prevention Plan (SWPPP).** Prior to the start of grading activity, the project sponsor must obtain coverage under the General Construction Activity Storm Water Permit (General Construction Permit) issued by the State Water Resources Control Board (SWRCB). The project sponsor must file a notice of intent (NOI) with the SWRCB. The project sponsor will be required to prepare a stormwater pollution prevention plan (SWPPP) and submit the plan for review and approval by the Planning and Zoning Division and the Building Services Division. At a minimum, the SWPPP shall include a description of construction materials, practices, and equipment storage and maintenance; a list of pollutants likely to contact stormwater; site-specific erosion and sedimentation control practices; a list of provisions to eliminate or reduce discharge of materials to stormwater; Best Management Practices (BMPs), and an inspection and monitoring program. Prior to the issuance of any construction-related permits, the project sponsor shall submit a copy of the SWPPP and evidence of approval of the SWPPP by the SWRCB to the Building Services Division. Implementation of the SWPPP shall start with the commencement of construction and continue through the completion of the project. After construction is completed, the project sponsor shall submit a notice of termination to the SWRCB.
- **Post-Construction Stormwater Pollution Management Plan.**
(<http://www.cleanwaterprogram.com>) Prior to issuance of a building permit (or other construction-related permit), the project sponsor shall comply with the requirements of Provision C.3 of the National Pollutant Discharge Elimination System (NPDES) permit issued to the Alameda Countywide Clean Water Program. The project sponsor shall submit with the application for a building permit (or other construction-related permit) a completed Stormwater Supplemental Form for the Building Services Division. The project drawings submitted for the building permit (or other construction-related permit) shall contain a stormwater pollution management plan, for review and approval by the City, to limit the discharge of pollutants in stormwater after construction of the project to the maximum extent practicable.
 - a) The post-construction stormwater pollution management plan shall include and identify the following:
 - i. All proposed impervious surface on the site;
 - ii. Anticipated directional flows of on-site stormwater runoff; and
 - iii. Site design measures to reduce the amount of impervious surface area and directly connected impervious surfaces; and
 - iv. Source control measures to limit the potential for stormwater pollution; and
 - v. Stormwater treatment measures to remove pollutants from stormwater runoff.
 - b) The following additional information shall be submitted with the post-construction stormwater pollution management plan:
 - i. Detailed hydraulic sizing calculations for each stormwater treatment measure proposed; and
 - ii. Pollutant removal information demonstrating that any proposed ~~manufactured/mechanical (i.e., non-landscape-based)~~ stormwater treatment measure, when not used in combination with a landscape-based treatment measure, is capable of removing the range of pollutants typically removed by landscape-based treatment measures.

All proposed stormwater treatment measures shall incorporate appropriate planting materials for stormwater treatment (for landscape-based treatment measures) and shall be designed with considerations for vector/mosquito control. Proposed planting materials for all proposed landscape-based stormwater treatment measures shall be included on the landscape and irrigation plan for the project. The project sponsor is not required to include on-site stormwater treatment measures in the post-construction stormwater pollution management plan if he or she secures approval from Planning and Zoning of a proposal that demonstrates compliance with the requirements of the City's Alternative Compliance Program.

Prior to final permit inspection, the project sponsor shall implement the approved stormwater pollution management plan.

- **Maintenance Agreement for Stormwater Treatment Measures.** Prior to the final zoning inspection, the project sponsor shall enter into the "Standard City of Oakland Stormwater Treatment Measures Maintenance Agreement," in accordance with Provision C.3.e of the NPDES permit, which provides, in part, for the following:
 - a) The applicant accepting responsibility for the adequate installation/construction, operation, maintenance, inspection, and reporting of any on-site stormwater treatment measures being incorporated into the project until the responsibility is legally transferred to another entity; and
 - b) Legal access to the on-site stormwater treatment measures for representatives of the City, the local vector control district, and staff of the Regional Water Quality Control Board, San Francisco Region, for the purpose of verifying the implementation, operation, and maintenance of the on-site stormwater treatment measures and to take corrective action if necessary. The agreement shall be recorded at the County Recorder's Office at the applicant's expense.

Responsible Implementing Entity: Oakland Community and Economic Development Agency (CEDA); Building Services Division; Oakland Public Works Agency

Monitoring Action(s): CEDA, Building Services Division shall conduct spot-checks as deemed necessary throughout construction period.

Monitoring Responsibility: CEDA, Building Services Division

Monitoring Timeframe: Throughout construction period.

Cultural Resources (Amended and Restated)

The following mitigation measures regarding cultural (archaeological) resources replace the measures included in the 2000 FEIR, consistent with the City of Oakland's current practice; implementation of these measures would reduce potential impacts on archaeological resources to a less-than-significant level.

- Pursuant to CEQA Guidelines section 15064.5 (f), "provisions for historical or unique archaeological resources accidentally discovered during construction" should be instituted. Therefore, in the event that any prehistoric or historic subsurface cultural resources are discovered during ground disturbing activities, all work within 50 feet of the resources shall be halted and the project sponsor and/or lead agency shall consult with a qualified archaeologist or paleontologist to assess the significance of the find. If any find is determined to be significant, representatives of the project proponent and/or lead agency and the qualified archaeologist would meet to determine the appropriate avoidance

measures or other appropriate measure, with the ultimate determination to be made by the City of Oakland. All significant cultural materials recovered shall be subject to scientific analysis, professional museum curation, and a report prepared by the qualified archaeologist according to current professional standards.

- In considering any suggested measure proposed by the consulting archaeologist in order to mitigate impacts to historical resources or unique archaeological resources, the project sponsor shall determine whether avoidance is necessary and feasible in light of factors such as the nature of the find, project design, costs, and other considerations. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery) shall be instituted. Work may proceed on other parts of the project site while measure for historical resources or unique archaeological resources is carried out.
- Should an archaeological artifact or feature be discovered on-site during project construction, all activities within a 50-foot radius of the find would be halted until the findings can be fully investigated by a qualified archaeologist to evaluate the find and assess the significance of the find according to the CEQA definition of a historical or unique archaeological resource. If the deposit is determined to be significant, the project sponsor and the qualified archaeologist shall meet to determine the appropriate avoidance measures or other appropriate measure, subject to approval by the City of Oakland, which shall assure implementation of appropriate measure measures recommended by the archaeologist. Should archaeologically-significant materials be recovered, the qualified archaeologist would recommend appropriate analysis and treatment, and would prepare a report on the findings for submittal to the Northwest Information Center.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA); Planning Division

Monitoring Action(s): Project sponsor shall contact qualified archaeologist in the event that artifacts are discovered during construction. Archaeologist shall consult with Planning Division regarding any such discovery and shall undertake data recovery as warranted based on the nature of the discovery.

Monitoring Responsibility: CEDA, Planning Division

Monitoring Timeframe: Direct data recovery, as applicable, in the event that artifacts are discovered during the construction period.

- In the event that human skeletal remains are uncovered at the project site during construction or ground-breaking activities, all work shall immediately halt and the Alameda County Coroner shall be contacted to evaluate the remains, and follow the procedures and protocols pursuant to Section 15064.5 (e)(1) of the CEQA Guidelines. If the County Coroner determines that the remains are Native American, the City shall contact the California Native American Heritage Commission (NAHC), pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code, and all excavation and site preparation activities shall cease within a 50-foot radius until appropriate arrangements are made.

If the agencies determine that avoidance is not feasible, then an alternative plan shall be prepared with specific steps and timeframe required to resume construction activities.

Monitoring, data recovery, determination of significance and avoidance measures (if applicable) shall be completed expeditiously.

- In the event of an unanticipated discovery of a paleontological resource during construction, excavations within 50 feet of the find shall be temporarily halted or diverted until the discovery is examined by a qualified paleontologist (per Society of Vertebrate

Paleontology standards (SVP 1995, 1996)). The qualified paleontologist shall document the discovery as needed, evaluate the potential resource, and assess the significance of the find under the criteria set forth in Section 15064.5 of the CEQA Guidelines. The paleontologist shall notify the appropriate agencies to determine procedures that would be followed before construction is allowed to resume at the location of the find. If the City determines that avoidance is not feasible, the paleontologist shall prepare an excavation plan for mitigating the effect of the project on the qualities that make the resource important, and such plan shall be implemented. The plan shall be submitted to the City for review and approval.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA); Planning Division; Alameda County Coroner; Native American Heritage Commission

Monitoring Action(s): Project sponsor shall contact coroner in the event that human remains are encountered. Agencies shall respond to any such discovery as applicable.

Monitoring Responsibility: CEDA; Planning Division; Alameda County Coroner; Native American Heritage Commission

Monitoring Timeframe: Throughout construction period

Hazards and Hazardous Materials

Implementation of these measures would reduce potential impacts on hazards and hazardous materials to a less-than-significant level.

- **Hazards Best Management Practices.** Prior to the commencement of demolition, grading, or construction, the project sponsor and construction contractor shall ensure that construction best management practices are implemented as part of construction to minimize the potential negative effects to groundwater and soils. These shall include the following:
 - a) Follow manufacture's recommendations on use, storage, and disposal of chemical products used in construction;
 - b) Avoid overtopping construction equipment fuel gas tanks;
 - c) During routine maintenance of construction equipment, properly contain and remove grease and oils;
 - d) Properly dispose of discarded containers of fuels and other chemicals.
 - e) Ensure that construction would not have a significant impact on the environment or pose a substantial health risk to construction workers and the occupants of the proposed development. Soil sampling and chemical analyses of samples shall be performed to determine the extent of potential contamination beneath all USTs, elevator shafts, clarifiers, and subsurface hydraulic lifts when on-site demolition, or construction activities would potentially affect a particular development or building.
 - f) If soil, groundwater or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the project sponsor shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the project sponsor shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notification of regulatory agency(ies) and implementation of the actions described in Standard Conditions of

Approval 50 and 52, as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.

Responsible Implementing Entity: Project Sponsor; Oakland Community and Economic Development Agency (CEDA); Building Services Division; Occupational Safety and Health Administration (OSHA)

Monitoring Action(s): CEDA, Planning Division shall review and approve health and safety plans; Building Services Division shall conduct spot-checks as deemed necessary throughout the demolition and construction period.

Monitoring Responsibility: CEDA; Planning Division; Building Services Division

Monitoring Timeframe: Throughout demolition and construction period

A City Ordinance Authorizing the City Administrator to Negotiate and Execute a Thirteenth Amendment to the Disposition and Development Agreement with Oakland T12 LLC, Regarding the City Center Project to Extend the Date to Substantially Complete an Office Development on Block T-12 of the City Center Project by 36 months (from April 12, 2012 to April 12, 2015), with two Additional Extension Options of 12 months each

Notice and Digest

The ordinance authorizes the City of Oakland to negotiate and execute a 13th Amendment to the Disposition and Development Agreement with Oakland T12 LLC, regarding the City Center Project to extend the date for substantial completion of an Office Development on Block T-12 of the City Center Project by 36 months (from April 12 to April 2015), with two Additional Extension Options of 12 months each, because of the national recession and the slowdown in the local and regional office markets. Payment for the extension options will be made to the Redevelopment Agency in the amount of \$300,000 for the initial extension, and \$300,000 and \$400,000, respectively for any additional extension.