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DEPUTY CITY ATTORNEY

# OAKLAND CITY COUNCIL

## ORDINANCE NO. 12641 C.M.S.

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### AN ORDINANCE AMENDING THE CENTRAL DISTRICT URBAN RENEWAL PLAN TO EXTEND THE TIME LIMITS ON PLAN EFFECTIVENESS AND RECEIPT OF TAX INCREMENT REVENUE BY UP TO TWO YEARS

**WHEREAS**, the City Council adopted the Central District Urban Renewal Plan (the "Redevelopment Plan") on June 12, 1969; and

**WHEREAS**, the City Council adopted the Twelfth Amendment to the Central District Urban Renewal Plan on July 24, 2001, (Ordinance No. 12348 C.M.S.) which among other things added certain territory to the Central District Project Area (the "Central District Twelfth Amendment Area"); and

**WHEREAS**, under the Twelfth Amendment to the Redevelopment Plan, the time limit on the effectiveness of the Redevelopment Plan as to the Central District Twelfth Amendment Area was set at 30 years from the date of adoption of the Twelfth Amendment, i.e., July 24, 2031, and the time limit on the Agency's ability to pay indebtedness and receive tax increment revenues as to the Central District Twelfth Amendment Area was set at 45 years from the date of adoption of the Twelfth Amendment, i.e., July 24, 2046; and

**WHEREAS**, on July 20, 2004, the Council adopted Ordinance No. 12617 C.M.S., which extended the time limit on the effectiveness of the Redevelopment Plan as to the Central District Project Area, excluding the Central District Twelfth Amendment Area, to June 12, 2010, and the time limit on the Agency's ability to pay indebtedness and receive tax increment revenues as to the Central District Project Area, excluding the Central District Twelfth Amendment Area, to June 12, 2020; and

**WHEREAS**, Health and Safety Code Section 33333.6(e)(2)(D)(i) authorizes the legislative body by ordinance to amend a redevelopment plan adopted prior to January 1, 1994, if the time limit on plan effectiveness is 10 years or less, to extend the time limits on plan effectiveness and the agency's ability to pay indebtedness and receive tax increment revenues by one year for each year the agency is required to make a payment to the Educational Revenue Augmentation Fund ("ERAF") under Health and Safety Code Section 33681.12 during fiscal years 2004-05 and 2005-06; and

**WHEREAS**, Health and Safety Code Section 33333.6(e)(3)(A) provides that such an ordinance may be adopted following a noticed public hearing if the legislative body finds that funds used to make a payment to the ERAF pursuant to Section 33681.12 would otherwise have been used to pay the costs of projects and activities necessary to carry out the goals and objectives of the redevelopment plan; and

**WHEREAS**, the Agency is required to make payments to the ERAF during fiscal year 2004-05 and fiscal year 2005-06; and

**WHEREAS**, the Agency wishes to amend the Central District Urban Renewal Plan to extend the time limits applicable to the Central District Project Area, excluding the Central District Twelfth Amendment Area, by two years; and

**WHEREAS**, the Council held a public hearing on the proposed amendment, notice of which was mailed to the governing body of each affected taxing entity at least 30 days prior to the public hearing and published in a newspaper of general circulation in the community at least once, not less than 10 days prior to the date of the public hearing; and

**WHEREAS**, Health and Safety Code Section 33333.2(c) authorizes the legislative body by ordinance to extend the time limits applicable to territory added to a redevelopment plan by an amendment adopted on or after January 1, 1994, to extend the time limits on plan effectiveness and the agency's ability to pay indebtedness and receive tax increment revenues as to the additional territory by one year, if the agency was required to make a payment to the ERAF under Health and Safety Code Section 33681.9 during fiscal year 2003-04; and

**WHEREAS**, the Agency was required to make a payment to the ERAF during fiscal year 2003-04; and

**WHEREAS**, the Agency wishes to amend the Central District Urban Renewal Plan to extend the time limits applicable to the Central District Twelfth Amendment Area by one year; and

**WHEREAS**, these actions are not subject to the California Environmental Quality Act of 1970 ("CEQA") because it can be seen with certainty that there is no possibility that the actions may have a significant effect on the environment; now, therefore

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

**SECTION 1.** The Council hereby finds and determines that funds that will be used to make payments to the ERAF pursuant to Health and Safety Code Section 33681.12 during fiscal year 2004-05 and fiscal year 2005-06 would otherwise be used to pay the costs of projects and activities necessary to carry out the goals and objectives of the Central District Urban Renewal Plan.

**SECTION 2.** Subsection C of Section 600 of the Redevelopment Plan for the Central District Urban Renewal Project is hereby amended to read in its entirety as follows (deletions are indicated with strikeout text, and additions with double underlining):

- C. Local Property Tax Increment: With the consent of the Oakland City Council, taxes, if any, levied upon the taxable property in the Project Area, hereinafter sometimes called the "redevelopment project," each year by or for the benefit of the State of California, the City of Oakland, County of Alameda, any district or other public corporation (hereinafter sometimes called "taxing agencies"), after the effective date of the ordinance approving this Plan shall be divided as provided in Article 6, Chapter 6, Part I (the Community Redevelopment Law) of the Health and Safety Code of the State of California and Section 16 of Article XVI of the Constitution of the State of California, to wit:
1. that portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of said taxing agencies upon the total sum of the assessed value of the taxable property in the redevelopment project as shown upon the assessment roll used in connection with the taxation of such property by such taxing agency last equalized prior to the effective date of such ordinance shall be allocated to, and when collected, shall be paid into the funds of the respective taxing agencies as taxes by or for said taxing agencies on all other property are paid (for the purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment project on the effective date of such ordinance but to which such territory has been annexed or otherwise included after such effective date, the assessment role of the county last equalized on the effective date of said ordinance shall be used in determining the assessed valuation of the taxable property in the project on said effective date); and
  2. that portion of said levied taxes each year in excess of such amount shall be allocated to and, when collected, shall be paid into a special fund of the Agency to pay the principal of and interest on loans, monies advanced to, or indebtedness (whether funded, refunded, assumed or otherwise) incurred by such agency to finance or refinance, in whole or in part, such redevelopment project. Unless and until the total assessed valuation of the taxable property in a redevelopment project exceeds the total assessed value of the taxable property in such project as shown by the last equalized assessment roll referred to in paragraph designated (1) hereof, all of the taxes levied collected upon the taxable property in such redevelopment project shall be paid into the funds of the respective taxing agencies. When said loans, advances and indebtedness, if any, and interest thereon, have been paid then all monies thereafter received from taxes upon the taxable property in such redevelopment project shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

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

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

The Agency shall not pay indebtedness or receive property taxes pursuant to Section 33670 from the Project Area after June 12, ~~2020~~2022, except as may otherwise be provided by Section 33333.6 of the Community Redevelopment Law or except as provided below for areas added to the Project Area by Plan amendment.

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

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

Notwithstanding any provision of this Plan to the contrary, as to ~~any areas~~ that territory added to the Project Area by the Twelfth Amendment to amendment of this Plan adopted ~~after June 1, 2001~~ on July 24, 2001 (that territory is referred to in this Plan as the "Central District Twelfth Amendment Area"), the Agency shall not establish or incur loans, advances or indebtedness to finance in whole or in part the Plan within the Central District Twelfth Amendment Area after July 24, 2021 ~~such areas beyond twenty (20) years from the effective date of the ordinance adopting the amendment~~, except that the Agency may incur loans, advances or indebtedness after July 24, 2021 ~~beyond twenty (20) years from the effective date of the ordinance adopting the amendment~~ to be paid from the Low and Moderate Income Housing Fund as defined by the Community Redevelopment Law or to meet the Agency's replacement housing or inclusionary housing requirements as set forth in Sections 33413 and 33413.5 of the Community Redevelopment Law, as said provisions apply to the Central District Twelfth Amendment Area ~~added areas~~. This limit shall not prevent the Agency from refinancing, refunding, or restructuring indebtedness after the time limit if the indebtedness is not increased and the time during which the indebtedness is to be repaid is not extended beyond the time limit to repay indebtedness required by Section 33333.2 of the Community Redevelopment Law.

As to the Central District Twelfth Amendment Area~~any areas added to the Project Area by amendment of this Plan adopted after June 1, 2001~~, the Agency will comply with the requirements of Section 33607.5 of the Community Redevelopment Law to make certain payments to affected taxing entities from tax increment revenues generated by the Central District Twelfth Amendment Area~~these areas~~.

Notwithstanding any provision of this Plan to the contrary, as to the Central District Twelfth Amendment Area~~any areas added to the Project Area by amendment of this Plan adopted after June 1, 2001~~, the Agency shall not pay indebtedness or receive property taxes pursuant to Section 33670 from the Central District Twelfth Amendment Area~~said additional areas after July 24, 2047~~ forty five (45) years from the effective date of the ordinance adopting the amendment.

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

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

**SECTION 3.** Subsection E of Section 700 of the Central District Urban Renewal Plan is hereby amended to read in its entirety as follows (deletions are indicated with strikethrough text, and additions with double underlining):

- E. Duration of Plan: The provisions of this Plan shall be filed as restrictive covenants running with land sold or leased by the Agency and shall be made part of each contract with the Agency for new development or for owner participation. The commencement date of the covenants shall be the date of approval of the Plan by the Oakland City Council. The provisions of this Plan shall be effective, and the provisions of other documents formulated pursuant to this Plan may be made effective, until June 12, ~~2040~~2012, except that the nondiscrimination and nonsegregation provisions shall run in perpetuity, and except as provided below for areas added to the Project Area by Plan amendment. After this time limit on the duration and effectiveness of the Plan, the Agency shall have no authority to act pursuant to this Plan for the Project Area except to pay previously incurred indebtedness and to enforce existing covenants or contracts, except as may be otherwise be provided by Section 33333.6 of the Community Redevelopment Law, and except as provided below for areas added to the Project Area by Plan amendment.

As to the Central District Twelfth Amendment Area ~~any areas added to the Project Area by amendment of this Plan adopted after June 1, 2001~~, the provisions of this Plan shall be effective, and the provisions of other documents formulated pursuant to this Plan may be made effective, for the Central District Twelfth Amendment Area ~~said additional areas until July 24, 2032 for thirty (30) years from the date of adoption of the amendment by the City Council~~, except that the nondiscrimination and nonsegregation provisions shall run in perpetuity. After this time limit on the duration and effectiveness of the Plan for ~~such additional areas~~ the Central District Twelfth Amendment Area, the Agency shall have no authority to act pursuant to this Plan for ~~such additional areas~~ the Central District Twelfth Amendment Area except to pay previously incurred indebtedness and to enforce existing covenants or contracts, and except that, if the Agency has not completed its housing obligations pursuant to Section 33413 of the Community Redevelopment Law, it shall retain its authority to implement its requirements under Section 33413, including its ability to incur and pay indebtedness for this purpose, and shall use this authority to complete these housing obligations as soon as reasonably possible.

**SECTION 4.** The City Administrator or his or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action.

**SECTION 5.** If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and this Council hereby declares that it would have passed the remainder of this Ordinance if such invalid portion thereof had been deleted.

**SECTION 6.** This Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter, if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

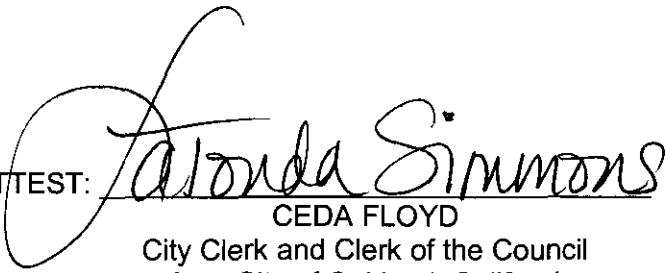
**DEC 21 2004**

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2004

**PASSED BY THE FOLLOWING VOTE:**

AYES-	BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, AND PRESIDENT DE LA FUENTE - 8
NOES-	<u>0</u>
ABSENT-	<u>0</u>
ABSTENTION-	<u>0</u>

Introduction Date: DEC 07 2004

ATTEST:   
CEDA FLOYD  
City Clerk and Clerk of the Council  
of the City of Oakland, California

**AN ORDINANCE AMENDING THE CENTRAL DISTRICT URBAN  
RENEWAL PLAN TO EXTEND THE TIME LIMITS ON PLAN  
EFFECTIVENESS AND RECEIPT OF TAX INCREMENT REVENUE  
BY UP TO TWO YEARS**

**NOTICE AND DIGEST**

This ordinance amends the Central District Urban Renewal Plan to extend the time limits in the Plan for Plan effectiveness and the ability of the Redevelopment Agency to pay indebtedness and receive tax increment revenues, as authorized under Health and Safety Code Sections 33333.6(e)(2)(D)(i) and 33333.2(c), by two years for the original Project Area, and by one year for territory added by Plan amendment.