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APPROVED AS TO FORM AND LEGALITY

  
DEPUTY CITY ATTORNEY

**OAKLAND CITY COUNCIL**  
**ORDINANCE NO. 12777 C.M.S.**

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**AN ORDINANCE ADOPTING THE THIRD AMENDMENT TO THE CENTRAL CITY EAST REDEVELOPMENT PLAN TO (1) MERGE THE CENTRAL CITY EAST REDEVELOPMENT PROJECT AREA WITH THE OAK KNOLL REDEVELOPMENT PROJECT AREA FOR FISCAL PURPOSES, AND (2) MERGE THE AFFORDABLE HOUSING PRODUCTION REQUIREMENTS FOR THE TWO PROJECT AREAS SUBJECT TO LIMITATIONS AND CONDITIONS**

**WHEREAS**, the City Council adopted the Redevelopment Plan for the Central City East Redevelopment Project (the "Central City East Redevelopment Plan") on July 29, 2003, pursuant to the California Community Redevelopment Law (California Health and Safety Code Sections 33000, et seq.); and

**WHEREAS**, the City Council adopted the Redevelopment Plan for the Oak Knoll Redevelopment Project (the "Oak Knoll Redevelopment Plan") on July 14, 1998, pursuant to the California Community Redevelopment Law; and

**WHEREAS**, both Plans include affordable housing production requirements as required under Section 33413(b) of the California Health and Safety Code; and

**WHEREAS**, Sections 33485 through 33489 of the California Health and Safety Code authorize a legislative body through plan amendment to merge redevelopment project areas; and

**WHEREAS**, the Redevelopment Agency has submitted to the Council a proposed Third Amendment to the Central City East Redevelopment Plan (the "Third Amendment" or the "Amendment"), attached to this Ordinance as Attachment A, which would (1) merge the Central City East Redevelopment Project Area with the Oak Knoll Redevelopment Project Area for fiscal purposes, and (2) merge the affordable housing production requirements for the two Project Areas, in that the Agency would be authorized to allocate surplus affordable housing units produced in the Central City East Project Area to meet the Oak Knoll affordable housing production requirements under certain conditions and subject to certain limitations; and

**WHEREAS**, the City of Oakland, as the Lead Agency for purposes of environmental review under the California Environmental Quality Act of 1970 ("CEQA"), prepared and certified an Environmental Impact Report for the Central City East Redevelopment Project (the "EIR") in connection with the adoption of the Central City East Redevelopment Project, in accordance with the California Environmental Quality Act, Public Resources Code § 21000, et seq.; and

**WHEREAS**, the requirements of CEQA, the CEQA Guidelines as prescribed by the Secretary for Resources, and the provisions of the Environmental Review Regulations of the City of Oakland have been satisfied; and

**WHEREAS**, the City Council has received from the Agency a Report of the Agency on the proposed amendments to the Central City East Redevelopment Plan and Oak Knoll Redevelopment Plan (the "Report to Council") pursuant to Section 33352 of the Community Redevelopment Law, which includes, among other things, a description of the remaining blight in the Central City East and Oak Knoll Project Areas, the projects that are planned to eradicate the remaining blight, and the relationship of the cost of those projects to the amount of increase in the tax increment limit for Oak Knoll; and

**WHEREAS**, the Planning Commission has submitted to the Council its report and recommendations for approval of the Amendment and its certification that the Amendment conforms to the General Plan of the City of Oakland; and

**WHEREAS**, the Council and the Agency held a joint public hearing on October 31, 2006, on adoption of the Amendment; and

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

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

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

**WHEREAS**, the Agency has notified the California Department of Housing and Community Development of its intention to merge the Central City East Redevelopment Project Area with the Oak Knoll Redevelopment Project Area at least 30 days prior to the adoption of this Ordinance; and

**WHEREAS**, the Central City East Project Area Committee ("PAC") has reviewed and made recommendations on the proposed Amendment; and

**WHEREAS**, the Council has considered the report and recommendations of the Planning Commission and the PAC, the Report to Council from the Agency on the Amendment and its economic feasibility, as well as the analysis and conclusions in the Report on remaining blight within the Central City East Project Area, and the environmental analysis, has provided an opportunity for all persons to be heard, and has received and considered all evidence and testimony presented for or against any and all aspects of the Amendment; and

**WHEREAS**, it is necessary and desirable that the Amendment and the merger be adopted for the reasons set forth in the Report to Council accompanying this Ordinance; now, therefore

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

**SECTION 1.** The Third Amendment to the Redevelopment Plan for the Central City East Project attached to this Ordinance as Attachment A is hereby approved and adopted as an amendment to the Redevelopment Plan for the Central City East Redevelopment Project.

**SECTION 2.** The City Council finds that it is necessary and desirable to amend the Redevelopment Plan and merge the Central City East Redevelopment Project Area with the Oak Knoll Redevelopment Project Area for fiscal purposes for the reasons set forth herein and in the Report to Council accompanying this Ordinance. The merger will result in substantial benefit to the public and contribute to the economic revitalization of blighted areas in Oakland through the increased economic vitality of such areas and through increased and improved housing opportunities in such areas. The carrying out of the merger will promote the public peace, health, safety and welfare of the City of Oakland and effectuate the purposes and policies of the Community Redevelopment Law.

**SECTION 3.** The City Council finds that the limited merger of the affordable housing production requirements of the Central City East Project Area with the Oak Knoll Project Area as set forth in the Amendment is necessary and desirable in order to provide needed flexibility to comply with the affordable housing production requirements of the two Project Areas. The City Council further finds that such limited merger will not cause or exacerbate racial, ethnic, or economic segregation in the Central City East Project Area, since it would have no effect on the level of affordable housing production in Central City East; the limited merger would simply allow surplus affordable housing units that are actually developed in Central City East irrespective of the merger to be allocated to Oak Knoll, and would expressly prohibit the development of additional affordable housing in Central City East to meet Oak Knoll's affordable housing production requirements.

**SECTION 4.** The City Council finds that the Amendment conforms to the General Plan of the City of Oakland. This finding is based on the finding of the Planning Commission that the Amendment conforms to the General Plan of the City of Oakland.

**SECTION 5.** The City Council has independently reviewed and considered this environmental determination, and the City Council finds and determines, based on the information provided in the report accompanying this Ordinance, that this action complies

with CEQA because the Amendment is exempt from CEQA pursuant to Section 15061(b)(3) (general rule), Section 15301 (alterations to existing facilities), and Section 15378(b)(4) (government fiscal activities) of the CEQA Guidelines.

**SECTION 6.** The City Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action.

**SECTION 7.** The City Council further finds and determines on the basis of substantial evidence in the record that none of the circumstances necessitating preparation of additional CEQA review as specified in CEQA and the CEQA Guidelines, including without limitation Public Resources Code Section 21166 and CEQA Guidelines Section 15162, are present in that (1) there are no substantial changes proposed in the Central City East Redevelopment Project or the circumstances under which the Project is undertaken that would require major revisions of the EIR due to the involvement of new environmental effects or a substantial increase in the severity of previously identified significant effects, and (2) there is no "new information of substantial importance" as described in CEQA Guidelines Section 15162(a)(3).

**SECTION 8.** The Council is satisfied that all written objections received before or at the noticed public hearing, if any, have been responded to in writing. In addition, written findings have been adopted in response to each written objection of an affected property owner or taxing entity which has been filed with the City Clerk either before or at the noticed public hearing, and all objections are hereby overruled.

**SECTION 9.** 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 10.** This Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter, if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

IN COUNCIL, OAKLAND, CALIFORNIA, DEC 19 2006, 2006

**PASSED BY THE FOLLOWING VOTE:**

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

ATTEST: *Latonda Simmons*  
 LATONDA SIMMONS  
 City Clerk and Clerk of the Council  
 of the City of Oakland, California

Introduction Date: **DEC 5 2006**

**ORDINANCE ADOPTING THIRD AMENDMENT TO  
THE CENTRAL CITY EAST REDEVELOPMENT PLAN**

**Attachment A**

**THIRD AMENDMENT  
TO THE REDEVELOPMENT PLAN FOR THE  
CENTRAL CITY EAST REDEVELOPMENT PROJECT**

*(attached)*

**THIRD AMENDMENT**  
**TO THE REDEVELOPMENT PLAN FOR THE**  
**CENTRAL CITY EAST REDEVELOPMENT PROJECT**

**Adopted by Ordinance No. \_\_\_\_\_ C.M.S.**  
**effective \_\_\_\_\_, 2006**

**Prepared by the**  
**REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND**

## **THIRD AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE CENTRAL CITY EAST REDEVELOPMENT PROJECT**

### **I. INTRODUCTION**

A Redevelopment Plan for the Central City East Redevelopment Project (the "Central City East Redevelopment Plan") was adopted by the Oakland City Council and the Redevelopment Agency of the City of Oakland on July 29, 2003, pursuant to the California Community Redevelopment Law (California Health and Safety Code Sections 33000, et seq.). A Redevelopment Plan for the Oak Knoll Redevelopment Project (the "Oak Knoll Redevelopment Plan") was adopted by the Oakland City Council and the Redevelopment Agency of the City of Oakland on July 14, 1998.

Sections 33485 through 33489 of the California Health and Safety Code authorize a legislative body through plan amendment to merge redevelopment project areas.

### **II. AMENDMENT**

A. The Central City East Redevelopment Plan is hereby amended to add the following section:

#### **X. [§1000] MERGER**

Upon the effective date of the Ordinance adopting the Third Amendment to this Plan, and provided an ordinance becomes effective that amends the Redevelopment Plan for the Oak Knoll Redevelopment Project to merge the Oak Knoll Redevelopment Project Area with this Project Area, the Central City East Project Area is hereby merged with the Oak Knoll Project Area. The merged project area may be referred to as the "Central City East/Oak Knoll Project Area" or the "Central City East/Oak Knoll Redevelopment Project." Any tax increment funds allocated to the Agency pursuant to Section 502 of the Redevelopment Plan for the Oak Knoll Redevelopment Project that are attributable to the Oak Knoll Project Area as established prior to the Third Amendment to the Oak Knoll Redevelopment Plan may be allocated to the entire Central City East/Oak Knoll Project Area for the purpose of paying the principal of, and interest on, indebtedness incurred by the Agency to finance or refinance, in whole or in part, the Central City East/Oak Knoll Redevelopment Project. Notwithstanding the merger, tax increment funds allocated to the Agency pursuant to Section 502 of this Plan that are attributable to the Central City East Project Area as established prior to the Third Amendment to this Plan, may not be allocated to the Oak Knoll Redevelopment Project.

## Third Amendment to Central City East Redevelopment Plan

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Notwithstanding the merger, all provisions of this Plan shall continue to govern the Central City East Project Area as established prior to the Third Amendment to this Plan. The Redevelopment Plan for the Oak Knoll Redevelopment Project shall have no application to this Project Area.

B. Section 330 of the Central City East Redevelopment Plan, Project Area Housing Production, is hereby amended to read as follows (additional text is underlined):

### 2. [§330] Project Area Housing Production

At least 30 percent of all new or substantially rehabilitated dwelling units developed by the Agency in the Project Area shall be available at affordable housing cost to persons and families of low or moderate income, with not less than 50 percent of these units made available at affordable housing cost to very low income households, as required by Section 33413 (in particular, subdivision (b) of that section) of the Community Redevelopment Law. At least 15 percent of all new or substantially rehabilitated dwelling units developed by public or private entities or persons other than the Agency in the Project Area shall be available at affordable housing cost to persons and families of low or moderate income, with not less than 40 percent of these units made available at affordable housing cost to very low income households, as required by Section 33413 (in particular, subdivision (b) of that section) of the Community Redevelopment Law. The requirements of this section shall apply in the aggregate, and not to each individual case of rehabilitation, development, or construction of dwelling units; however, the Agency in its discretion may impose inclusionary housing requirements on particular housing projects developed by public or private entities or persons other than the Agency in the Project Area, as needed in order for the Agency to comply with Section 33413 of the Community Redevelopment Law, this Plan, and the implementation plan adopted for the Project pursuant to Section 33490 of the Community Redevelopment Law.

Notwithstanding the above or anything else in the Plan to the contrary, the affordable housing production requirements as set forth above for the Central City East Project Area are hereby merged with the affordable housing production requirements as set forth in the Oak Knoll Redevelopment Plan, but only in the limited circumstances and subject to the conditions set forth in this paragraph. In general, the Agency shall ensure that the affordable housing production requirements set forth in Section 33413(b) of the Community Redevelopment Law are met separately for the Central City East Project Area and for the Oak Knoll Project Area every 10 years (the "compliance period") as set forth in the Community Redevelopment Law. However, if the number of new or substantially rehabilitated dwelling units actually developed in the Central City East Project Area during a compliance period and made available at an affordable housing cost



### Third Amendment to Central City East Redevelopment Plan

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to low or moderate income families and/or very low income households exceeds the minimum number required by this Section for such income group, the surplus of affordable housing units may be allocated to the Oak Knoll Project Area for purposes of satisfying the affordable housing production requirements of the Oak Knoll Redevelopment Plan for the same income group. Any such allocation shall be subject to all of the following conditions:

- Any allocation of surplus affordable housing units to Oak Knoll must be approved by the governing body of the Agency by resolution.
- Only surplus affordable housing units developed within Central City East with no relationship to development at Oak Knoll may be allocated to Oak Knoll.
- The Agency must compensate Central City East redevelopment funds from Oak Knoll redevelopment funds for any allocation of surplus affordable housing units to Oak Knoll as set forth below. The amount of compensation for each unit shall be equal to the average Agency per-unit subsidy for developing affordable housing for the applicable income group, with such average calculated based on the average Agency subsidy provided through the Agency's most recent Notice of Funding Availability process or other affordable housing funding process at the time of the allocation. The compensation shall come from non-housing Oak Knoll tax increment funds. The compensation may be in the form of an Agency commitment to compensate Central City East redevelopment funds from present or future Oak Knoll funds. The Agency may also accept contributions from redevelopers in the Oak Knoll Project Area to fund such compensation. In no event may Oak Knoll Low and Moderate Income Housing Funds be used for such purposes. Any such funds shall be used exclusively within the Central City East Project Area.
- No affordable housing shall be constructed within the Central City East Project Area for the purpose of satisfying the affordable housing production requirements of the Oak Knoll Project Area.
- At least 50% of the Oak Knoll affordable housing area production requirement shall be satisfied by allocating surplus affordable housing units developed in Central City East.

C. All other provisions of the Central City East Redevelopment Plan not expressly modified or amended by the terms of this Third Amendment shall remain in full force and effect.

**AN ORDINANCE ADOPTING THE THIRD AMENDMENT TO THE CENTRAL CITY EAST REDEVELOPMENT PLAN TO (1) MERGE THE CENTRAL CITY EAST REDEVELOPMENT PROJECT AREA WITH THE OAK KNOLL REDEVELOPMENT PROJECT AREA FOR FISCAL PURPOSES, AND (2) MERGE THE AFFORDABLE HOUSING PRODUCTION REQUIREMENTS FOR THE TWO PROJECT AREAS SUBJECT TO LIMITATIONS AND CONDITIONS**

## **NOTICE AND DIGEST**

This ordinance amends the Central City East Redevelopment Plan to merge the Central City East Redevelopment Project Area with the Oak Knoll Redevelopment Project Area for fiscal purposes and for affordable housing production requirement purposes pursuant to the California Community Redevelopment Law, and makes certain findings in support of such amendment.