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OFFICE OF THE CITY CLERK
OAKLAND

CITY OF OAKLAND

AGENDA REPORT

2011 JAN 27 AM 11:56

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Community and Economic Development Agency
DATE: February 8, 2011

RE: Report And Ordinance, Recommended By The Planning Commission, To: (a) Designate Micro And Mini Telecommunications Facilities As Conditionally Permitted In All HBX (Housing-Business Mix) Zones; (b) Amend Zoning Code Section 17.134.020(A) To Require The Major Conditional Use Permit Procedure For Telecommunications Facilities In All HBX Zones; (c) Amend Zoning Code Section 17.128.110 To Require The Site Alternatives Analysis Procedure For Certain Telecommunications Facilities In The HBX Zones; (d) Add New Zoning Code Section 17.128.025 To Clarify That A Major Conditional Use Permit Is Required For Telecom Facilities Locating In Close Proximity To Both Residential And HBX Zones; And (e) Make Other Non-Substantive Changes To The Zoning Code As Necessary For Clarity To Enact This Regulation

SUMMARY

The purpose of this zoning text amendment is to give applications for siting telecommunications (telecom) facilities in or near the Housing and Business Mix Zones (HBX-1, HBX-2 and HBX-3) the same level of regulatory scrutiny as the Planning Code currently gives to siting telecom facilities in or near Oakland's residential zones. The Planning Commission held a public hearing on this proposed text amendment on January 19, 2011, and voted unanimously to recommend the ordinance to the Oakland City Council.

FISCAL IMPACT

This ordinance has the potential to generate a small increase in Conditional Use Permit applications. However, existing staffing and appropriation levels should be sufficient to process any increase in permit applications; therefore no additional costs are expected to be incurred by the Development Service Fund (2415).

BACKGROUND

The HBX zones are mapped in areas of Oakland with a unique mix of residences, and commercial and industrial businesses. In HBX zones, residential homes are often near or

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adjacent to buildings that are commercial or otherwise non-residential, which are often the preferred location of telecom facilities. The Planning Code (CMC Section 17.65.010) cites these purposes of the HBX zones:

The purposes of the Housing and Business Mix zones are to:

- A. Allow for mixed use districts that recognize both residential and business activities
- B. Establish development standards that allow residential and business activities to compatibly co-exist
- C. Provide a transition between industrial areas and residential neighborhoods
- D. Encourage development that respects environmental quality and historic patterns of development
- E. Foster a variety of small, entrepreneurial, and flexible home-based businesses.

General description of Telecommunications Facilities

The general description of Telecommunications Facilities in the Oakland Planning Code states that: Telecommunications Facilities include attachment of antennas to buildings and similar facilities, the construction of support structures, and the provision of equipment associated with transmitting and receiving of radio frequencies. (OMC Section 17.10.860)

The Oakland Planning Code further defines five types of telecom facilities. The four relevant types of telecom facilities in HBX zones are:

Micro: A Micro Facility is an attached wireless communication facility consisting of no more than three (3) antennas whose height is no more than four (4) feet and whose width is no more than one foot and the antennas are concealed from view. If the antennas are visible, they may be no more than two feet tall and the width and depth of the antennas may be no more than four inches. The associated equipment cabinets are not to exceed four feet high by three feet wide by two feet deep if they are visible. If the equipment cabinets are concealed in an existing building, there is no limit on size of equipment. (OMC Section 17.10.870)

Mini: A Mini Facility is an attached wireless communication facility consisting of no more than twelve (12) antennas projecting no more than fifteen (15) feet above the roof line. The associated equipment cabinets are either concealed in an existing building, or no more than six feet in height and occupy an area of no more than 30 square feet. Construction of a separate structure to enclose the equipment serving the antennas is not allowed under the Mini Facility definition. (OMC Section 17.10.880)

Macro: A Macro Facility is a wireless communication facility not included in the definition of Micro Facilities, Mini Facilities, Monopoles or Lattice Towers. (OMC Section 17.10.890)

Monopole: A Monopole Facility is a wireless communication facility that supports wireless communications antennas with a monopolar structure erected on the ground, terminating in one or more connecting appurtenances. (OMC Section 17.10.900)

This text amendment proposes the following changes to the review of telecom facilities in HBX zones:

1. Micro and Mini telecom facilities will become *conditionally* permitted in the HBX zones. Currently, Micro and Mini telecom facilities are permitted outright in HBX zones.
2. Applications for Micro, Mini, Macro and Monopole telecom facilities sited in, or in close proximity to, HBX zones, would have to apply through the *major* conditional use permit procedure, and therefore require a public hearing before the Planning Commission;
3. Applications for Micro, Mini, Macro and Monopole telecom facilities will also require the site alternatives analysis performed per the Planning Code section 17.128.110 (G); (See *Exhibit A* to the proposed ordinance which accompanies this report).
4. The regulatory authority for requiring a Major Conditional Use Permit for telecom facilities sited within close proximity of residential zones will be amended to add the HBX zones, and moved from the individual commercial zones in the Planning Code to a new section added to Chapter 17.128 (Section 17.128.025 - Restrictions on Telecommunications Facilities).

In March, 2010, zoning text amendments were adopted by Council¹ that added a code section to the commercial zones, as well as some S-overlay zones, requiring a Major Conditional Use Permit for telecom facilities sited within close proximity of residential zones. As proposed under this ordinance, this regulation would be amended to include the HBX zones; and relocated into the 17.128 Telecommunications Chapter of the Planning Code (as a new section - 17.128.025). See *Exhibit A* for details.

This zoning text amendment does not prohibit telecom facilities in HBX zones, but rather, makes the Micro and Mini telecom facility types conditionally permitted, where currently they are permitted outright. The amendment makes no change from the current HBX zoning which requires a conditional use permit for Macro and Monopole telecommunications facilities (see *Exhibit A*, Planning Code Section 17.65.040 "Permitted and conditionally permitted facilities").

Also, the amendment makes Micro, Mini, Macro and Monopole telecom facilities sited in, or in close proximity to, HBX zones subject to the major conditional use permit procedure. The amendment also requires a site alternatives analysis for these four telecom facility types.

Additionally, *Exhibit A* includes non-substantive amendments to other sections of the zoning code, necessary to enact this regulation.

¹ See Ordinance number 12999 C.M.S.; see for example, in Exhibit A to that ordinance-- "Restrictions on Telecommunications Facilities" in 17.38.075.

KEY ISSUES AND IMPACTS

Telecommunications Facilities in HBX zones.

The HBX zones are mapped in areas of Oakland with a unique mix of residences, and commercial and industrial businesses. In HBX zones, residential homes are often near, or adjacent to buildings that are commercial or otherwise non-residential, which are often the preferred location of telecom facilities.

Currently, if an Oakland resident lives in a Residential zoning district (R-1 through R-90, inclusive) that resident is assured a certain regulatory process when an applicant seeks to site a telecommunications facility either in the residential zone, or in close proximity to it. That regulatory process includes the filing of a conditional use permit with the Planning and Zoning division, public noticing to neighbors, and an opportunity to testify before the City Planning Commission. Additionally, the actions of the City Planning Commission on Telecommunications facilities in or near residential zones are appealable to the City Council.

Residents who live in HBX zones face a discrepancy in the Planning Code's regulations for review of Micro and Mini Telecommunications facilities in HBX zones, as compared to the regulations of these facilities in residential zones. Because Micro and Mini Facilities are permitted in HBX zones, but conditionally permitted in Residential zones, residents living in a residential zone are conferred certain benefits which are not conferred on residents of HBX zones -- such as the ability to testify before the City Planning Commission at a public hearing, or the ability to appeal a Telecommunications facility application to the City Council.

This ordinance would amend the Zoning Code to give residents and property owners in HBX zones the same level of regulatory protection as those who live in Residential zones.

Environmental

These zoning text amendments are exempt from CEQA, each as a separate and independent basis, under CEQA Guidelines Section 15061(b)(3) (the "General Rule" that CEQA applies only to projects which have the potential for causing a significant effect on the environment); Section 15307 ("Actions by Regulatory Agencies for Protection of Natural Resources")—because the ordinance makes citing new telecom equipment subject to a more rigorous administrative and Commission-level review; and Section 15183 ("Projects Consistent with a Community Plan, General Plan, or Zoning"). As a further separate and independent basis, the proposal relies on the previously certified Final Environmental Impact Report (EIR) for the Land Use and Transportation Element of the General Plan, adopted 1998; the Oakland Estuary Policy Plan Environmental Impact Report, adopted 1998; the Final EIR for the 1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR certified in December 2010; and various Redevelopment Plan Final EIRs.

SUSTAINABLE OPPORTUNITIES

Economic:

This ordinance is neutral on the question of economic benefits for the City.

Environmental:

This ordinance would amend the Zoning Code to give residents and property owners in HBX zones the same level of regulatory protection as those who live in Residential zones.

Social Equity:

This ordinance will allow the residents and property owners of HBX zones, and areas adjacent to HBX zones, to participate in the permitting of new telecommunications facilities. The participation will be enacted through the public noticing process, and through a public hearing before the Oakland Planning Commission.

DISABILITY AND SENIOR CITIZEN ACCESS

This ordinance has no effect on access for the persons with disabilities, or for seniors.

RECOMMENDATION(S) AND RATIONALE

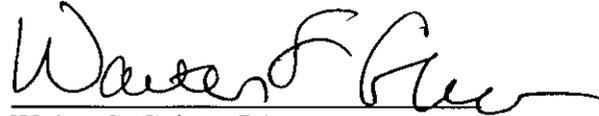
With the intent of equalizing the planning review procedure for telecom facilities in or near the Housing and Business Mix Zones (HBX-1, HBX-2 and HBX-3) and the current review procedure for telecom facilities in or near the Residential Zones, staff recommends that the City Council take public testimony, close the public hearing, and adopt the Zoning Text Amendment to designate Micro and Mini Telecommunications facilities as conditionally permitted in all HBX zones; amend Zoning Code Section 17.134.020(A) to require the Major Conditional Use Permit procedure (including a public hearing before the Oakland Planning Commission) for Telecommunications facilities in the HBX zones; amend Zoning Code Section 17.128.110 to require the site alternatives analysis procedure for certain Telecommunications facilities in the HBX zones; add new Zoning Code Section 17.128.025 to clarify that a Major Conditional Use Permit is required for Telecom facilities locating in close proximity to both Residential and HBX zones; and make other non-substantive changes to the Zoning Code as necessary for clarity to enact this regulation, as described in *Exhibit A* to the proposed Ordinance.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council take public testimony, close the public hearing, and adopt the Zoning Text Amendment to:

- Designate Micro and Mini Telecommunications facilities as conditionally permitted in all HBX zones;
- Amend Zoning Code Section 17.134.020(A) to require the Major Conditional Use Permit procedure for Telecommunications facilities in the HBX zones;
- Amend Zoning Code Section 17.128.110 to require the site alternatives analysis procedure for certain Telecommunications facilities in the HBX zones;
- Add new Zoning Code Section 17.128.025 to clarify that a Major Conditional Use Permit is required for Telecom facilities locating in close proximity to both Residential and HBX zones;
- And make other non-substantive changes to the Zoning Code as necessary for clarity to enact this regulation, as described in *Exhibit A* to the proposed Ordinance.

Respectfully submitted,



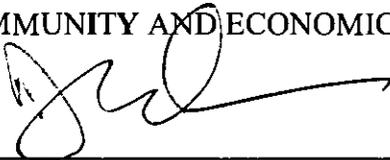
Walter S. Cohen, Director

Community and Economic Development Agency

Reviewed by:
Eric Angstadt, Deputy Director

Prepared by:
Devan Reiff, AICP, Planner II
Strategic Planning Division

**APPROVED AND FORWARDED TO THE
COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE:**



Office of the City Administrator

Exhibit A—Text changes to sections of Planning Code to implement this ordinance

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OAKLAND CITY COUNCIL
ORDINANCE No. _____ C.M.S.

REPORT AND ORDINANCE, RECOMMENDED BY THE PLANNING COMMISSION, TO: (A) DESIGNATE MICRO AND MINI TELECOMMUNICATIONS FACILITIES AS CONDITIONALLY PERMITTED IN ALL HBX (HOUSING-BUSINESS MIX) ZONES; (B) AMEND ZONING CODE SECTION 17.134.020(A) TO REQUIRE THE MAJOR CONDITIONAL USE PERMIT PROCEDURE FOR TELECOMMUNICATIONS FACILITIES IN ALL HBX ZONES; (C) AMEND ZONING CODE SECTION 17.128.110 TO REQUIRE THE SITE ALTERNATIVES ANALYSIS PROCEDURE FOR CERTAIN TELECOMMUNICATIONS FACILITIES IN THE HBX ZONES; (D) ADD NEW ZONING CODE SECTION 17.128.025 TO CLARIFY THAT A MAJOR CONDITIONAL USE PERMIT IS REQUIRED FOR TELECOM FACILITIES LOCATING IN CLOSE PROXIMITY TO BOTH RESIDENTIAL AND HBX ZONES; AND (E) MAKE OTHER NON-SUBSTANTIVE CHANGES TO THE ZONING CODE AS NECESSARY FOR CLARITY TO ENACT THIS REGULATION

WHEREAS, HBX zones (HBX-1, -2 and -3) are mapped in areas of West, Central and East Oakland with a unique mix of residences, commercial and industrial businesses; and

WHEREAS, In HBX zones, residential homes are typically adjacent to buildings which are commercial or otherwise non-residential, which are often the preferred locations of telecom facilities; and

WHEREAS, The Planning Code (OMC Section 17.65.010) cites these purposes of the HBX zones:

The purposes of the Housing and Business Mix zones are to:

- A. Allow for mixed use districts that recognize both residential and business activities**
- B. Establish development standards that allow residential and business activities to compatibly co-exist**
- C. Provide a transition between industrial areas and residential neighborhoods**
- D. Encourage development that respects environmental quality and historic patterns of development**
- E. Foster a variety of small, entrepreneurial, and flexible home-based businesses; and**

WHEREAS, Micro, Mini, Macro and Monopole Telecommunications facilities are defined in the Oakland Planning Code (OMC Section 17.10.870 and following); and

WHEREAS, Micro, Mini, Macro and Monopole Telecommunications facilities are conditionally permitted for all residential zoning districts, regulated with the major conditional use permit procedure of OMC Section 17.134.020 (A) (3), and are appealable to the City Council; and

WHEREAS, Micro and Mini Telecommunications facilities are permitted in HBX zones, and require a regular design review permit be approved by the Director of City Planning, appealable to the Planning Commission, which is a lesser standard of regulatory review when compared to the major conditional use permit procedure; and

WHEREAS, the discrepancy in the Planning Code's regulations for Micro and Mini Telecommunications facilities in HBX zones, as compared to residential zones, means that residents living in a residential zone are conferred certain benefits which are not conferred on residents of HBX zones -- such as the ability to testify before the City Planning Commission at a public hearing, or the ability to appeal a Telecommunications facility application to the City Council; and

WHEREAS, this ordinance is intended to amend regulations in the Planning Code, to resolve the discrepancy between Telecommunications permitting in the residential and the HBX zones;

WHEREAS, after a duly noticed public hearing on January 19, 2011, the Oakland Planning Commission voted to recommend the ordinance to the Oakland City Council; now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. The City Council finds and determines the forgoing recitals to be true and correct and hereby makes them a part of this Ordinance.

Section 2. Title 17 of the Oakland Planning Code is hereby amended to make regulation of Telecommunications facilities in HBX zones the same as in residential zones; as detailed in Exhibit A, attached hereto and hereby incorporated herein by reference.

Section 3. Prior to adopting this Ordinance, the City Council independently finds and determines that this action complies with CEQA because the zoning text amendment is exempt, each as a separate and independent basis, under CEQA Guidelines Section 15061(b)(3) (the "General Rule" that CEQA applies only to projects which have the potential for causing a significant effect on the environment); Section 15307 ("Actions by Regulatory Agencies for Protection of Natural Resources")—because the ordinance makes citing new telecom equipment subject to a more rigorous administrative and Commission-level review; Section 15183 ("Projects Consistent with a Community Plan, General Plan, or Zoning"). As a further separate and independent basis, the proposal relies on the previously certified Final Environmental Impact Report for the Land Use and Transportation Element of the General Plan, adopted 1998; the Oakland Estuary Policy Plan Environmental Impact Report, adopted 1998; the Final EIR for the

1998 Amendment to the Historic Preservation Element of the General Plan; the 2007-2014 Housing Element Final EIR certified in December 2010; and various Redevelopment Plan Final EIRs.

Section 4. This Ordinance shall be effective 30 days from the date of final passage by the City Council, but shall not apply to: (a) building/construction related permits already issued and not yet expired; or (b) to zoning applications approved by the City and not yet expired; or to (c) zoning applications deemed complete by the City as of the date of final passage. However, zoning applications deemed complete by the City prior to the date of final passage of this Ordinance may be processed under provisions of these Planning Code amendments if the applicant chooses to do so.

Section 5. Nothing in this Ordinance shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law.

Section 6. If any section, subsection, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of the remaining portions which shall remain in full effect.

Section 7. 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) 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.

Section 8. 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, Planning Division, 250 Frank H. Ogawa Plaza, 3rd Floor, Oakland; and (b) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____

Exhibit A

Changes are highlighted; deletions are in ~~strikeout~~; additions are underlined.

Chapter 17.65 HBX HOUSING AND BUSINESS MIX COMMERCIAL ZONE REGULATIONS

Sections:

<u>17.65.010</u>	<u>Title, purpose, and applicability.</u>
17.65.020	Required design review process.
17.65.030	<u>Permitted, conditionally permitted and prohibited activities.</u>
<u>17.65.040</u>	<u>Permitted and conditionally permitted facilities.</u>
17.65.050	Special regulations for self storage facilities.
17.65.060	Minimum lot area, width and frontage.
17.65.070	Maximum density.
17.65.080	Maximum floor area ratio.
17.65.100	Maximum height.
17.65.080	Maximum floor area ratio.
17.65.090	Maximum density and floor-area ratio for mixed use projects.
17.65.100	Maximum height.
17.65.110	Minimum yards and courts.
17.65.120	Minimum usable open space.
17.65.130	Landscaping, paving, and buffering.
17.65.140	Outdoor storage.
17.65.150	Special regulations for HBX work/live units.
17.65.160	Special regulations for HBX live/work units.
17.65.170	Special regulations for mini-lot and planned unit developments.
17.65.180	Other zoning provisions.

17.65.010 Title, purpose, and applicability.

The provisions of this chapter shall be known as the **Housing and Business Mix Commercial Zone Regulations**. This chapter establishes land use regulations for the HBX-1, HBX-2 and HBX-3 zones.

The purposes of the Housing and Business Mix zones are to:

- A. Allow for mixed use districts that recognize both residential and business activities;
- B. Establish development standards that allow residential and business activities to compatibly co-exist;
- C. Provide a transition between industrial areas and residential neighborhoods;
- D. Encourage development that respects environmental quality and historic patterns of development.
 1. Foster a variety of small, entrepreneurial, and flexible home-based businesses.

Housing and Business Mix 1 (HBX-1) Zone. The HBX-1 zone is intended to provide development standards that provide for the compatible coexistence of industrial and heavy commercial activities and medium density residential development. This zone recognizes the equal importance of housing and business.

Housing and Business Mix 2 (HBX-2) Zone. The HBX-2 zone is intended to provide development standards for areas that have a mix of industrial, certain commercial and medium to

Exhibit A

high density residential development. This zone recognizes the equal importance of housing and business.

Housing and Business Mix 3 (HBX-3) Zone. The HBX-3 zone is intended to provide development standards for areas that have a mix of industrial, heavy commercial and higher density residential development. This zone is intended to promote housing with a strong presence of commercial and industrial activities. (Ord. 12772 § 1 (part), 2006)

17.65.040 Permitted and conditionally permitted facilities.

The following table lists regulations relating to certain facilities. The descriptions of these facilities are contained in Chapter 17.10.

“P” indicates that the facility is permitted in the corresponding zone.

“C” indicates that the facility is only permitted upon the granting of a conditional use permit (see Chapter 17.134) in the corresponding zone.

“--” designates uses that are prohibited in the corresponding zone.

Facility Types	Zone			Additional Regulations
	HBX-1	HBX-2	HBX-3	
<i>Residential Facilities</i>				
One-Family Dwellings	P	P	P	
One-Family Dwelling with Secondary Unit	P	P	P	17.102.360
Two-Family Dwelling	P	P	P	
Multifamily Dwelling	P	P	P	
Rooming House	P	P	P	
Mobile Home	--	--	--	
<i>Nonresidential Facilities</i>				
Enclosed Nonresidential	P	P	P	
Open Nonresidential	C	C	C	
Sidewalk Café	P	P	P	17.102.335
Drive-In Nonresidential	P	P	P	
Drive-Through Nonresidential	C	C	C	17.102.290
Shopping Center	--	--	--	
<i>Telecommunications Facilities</i>				
Micro Telecommunications	P-C	P-C	P-C	17.128
Mini Telecommunications	P-C	P-C	P-C	17.128
Macro Telecommunications	C	C	C	17.128
Monopole Telecommunications	C	C	C	17.128
Tower Telecommunications	--	--	--	17.128
<i>Sign Facilities</i>				
Residential Signs	P	P	P	17.104
Special Signs	P	P	P	17.104
Development Signs	P	P	P	17.104
Realty Signs	P	P	P	17.104
Civic Signs	P	P	P	17.104

Exhibit A

Business Signs	P	P	P	17.104
Advertising Signs	--	--	--	17.104

Other Zoning Code changes to implement this ordinance:

Chapter 17.128 TELECOMMUNICATIONS REGULATIONS

Sections:

- 17.128.010 Title, purpose, and applicability.
- 17.128.020 Exclusions.
- 17.128.025 Restrictions on Telecommunications Facilities
- 17.128.030 Removal of Telecommunications Facilities.
- 17.128.040 Supplemental definitions.
- 17.128.050 Micro Facilities.
- 17.128.060 Mini Facilities.
- 17.128.070 Macro Facilities.
- 17.128.080 Monopoles.
- 17.128.090 Towers.
- 17.128.100 Regulations apply to parks and other similar open spaces.
- 17.128.110 Site Location Preferences.
- 17.128.120 Site Design Preferences.
- 17.128.130 Radio Frequency Emissions Standards.

17.128.025 Restrictions on Telecommunications Facilities

A. Any Telecommunications Facility shall not be permitted in, or within one hundred (100) feet of the boundary of, any residential or HBX zone, except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134!

B. Any Monopole Telecommunications Facilities shall not be permitted in, or within three hundred (300) feet of the boundary of, any residential or HBX zone, except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134!

C. Any Telecommunications Facility whose antennas and equipment are not fully concealed from view shall not be permitted within three hundred (300) feet of the boundary of residential zones R-1 through R-60 inclusive or any HBX zone, except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134!

17.128.060 Mini Facilities.

C. Conditional Use Permit Criteria for Mini Facilities. In addition to the conditional use criteria listed in Chapter 17.134, the following specific additional criteria must be met before a conditional use permit can be granted:

1. The project must meet the special design review criteria listed in subsection B of this section.
2. The proposed project must not disrupt the overall community character.

Exhibit A

3. In residential zones R-1 through R-60¹ inclusive and in HBX zones, the project must not have any visual impact. (Ord. 12272 § 4 (part), 2000; Ord. 11904 § 5.01 (part), 1996; prior planning code § 8506)

17.128.110 Site Location Preferences.

New wireless facilities shall generally be located on the following properties or facilities in order of preference:

- A. Co-located on an existing structure or facility with existing wireless antennas.
- B. City owned properties or other public or quasi-public facilities.
- C. Existing commercial or industrial structures in non-residential zones (excluding all HBX zones).
- D. Existing commercial or industrial structures in residential or HBX zones.
- E. Other non-residential uses in residential or HBX zones.
- F. Residential uses in non-residential zones (excluding all HBX zones).
- G. Residential uses in residential or HBX zones.

Facilities locating on an A, B or C ranked preference do not require a site alternatives analysis. Facilities proposing to locate on a D through G ranked preference, inclusive, must submit a site alternatives analysis as part of the required application materials. A site alternatives analysis shall, at a minimum, consist of:

- a. The identification of all A, B and C ranked preference sites within 1,000 feet of the proposed location. If more than three sites in each preference order exist, the three such closest to the proposed location shall be required.
- b. Written evidence indicating why each such identified alternative can not be used. Such evidence shall be in sufficient detail that independent verification, at the applicant's expense, could be obtained if required by the City of Oakland Zoning Manager. Evidence should indicate if the reason an alternative was rejected was technical (e.g. incorrect height, interference from existing RF sources, inability to cover required area) or for other concerns (e.g. refusal to lease, inability to provide utilities).

Chapter 17.134 CONDITIONAL USE PERMIT PROCEDURE

17.134.020 Definition of major and minor conditional use permits.

A. Major Conditional Use Permit. A conditional use permit is considered a major conditional use permit if it involves any of the following:

3. Special Situations. Any project that involves any of the following situations:
 - e. Monopole Telecommunications Facilities in, or within three hundred (300) feet of the boundary of, any residential or HBX zone;
 - i. Any Telecommunications Facility in¹ or within one hundred (100) feet of the boundary of¹ any residential or HBX zone;
 - j. Any Telecommunications Facility whose antennas and equipment are not fully concealed from view within three hundred (300) feet of the boundary of residential zones R-1 through R-60 inclusive or any HBX zone.

Chapter 17.74 S-1 MEDICAL CENTER ZONE REGULATIONS

Sections:

- 17.74.010 Title, purpose, and applicability.
- 17.74.020 Required design review process.
- 17.74.030 Permitted activities.
- 17.74.040 Conditionally permitted activities.
- 17.74.050 Permitted facilities.
- 17.74.060 Conditionally permitted facilities.
- 17.74.070 Special regulations applying to certain Commercial Activities.
- ~~17.74.075 Restrictions on Telecommunications Facilities~~
- 17.74.080 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a nonresidential activity.

- 17.74.090 Use permit criteria for Commercial Activities.
- 17.74.100 Limitations on Signs.
- 17.74.110 Minimum lot area, width, and frontage.
- 17.74.120 Maximum residential density.
- 17.74.130 Maximum floor-area ratio.
- 17.74.140 Maximum height.
- 17.74.150 Minimum yards and courts.
- 17.74.160 Minimum usable open space.
- 17.74.170 Buffering.
- 17.74.180 Special regulations for mini-lot and planned unit developments.
- 17.74.190 Other zoning provisions.

17.74.050 Permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, are permitted:

- A. Residential Facilities:
 - One-Family Dwelling
 - One-Family Dwelling with Secondary Unit, subject to the provisions specified in Section 17.102.360
 - Two-Family Dwelling
 - Multifamily Dwelling
 - Rooming House
- B. Nonresidential Facilities:
 - Enclosed
- C. Signs:
 - Residential
 - Special
 - Development
 - Realty
 - Civic
 - Business
- D. Telecommunications:

Exhibit A

Micro, except when a Major Conditional Use Permit is required by
Section ~~17.74.075-17.128.025~~

Mini, except when a Major Conditional Use Permit is required by
Section ~~17.74.075-17.128.025~~

~~17.74.075 — Restrictions on Telecommunications Facilities~~

~~A. Any Telecommunications Facility shall not be permitted in or within one hundred (100) feet of the boundary of any residential zone, except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.~~

~~B. Any Telecommunications Facility whose antennas and equipment are not fully concealed from view shall not be permitted within three hundred (300) feet of the boundary of residential zones R-1 through R-60 inclusive, except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.~~

Chapter 17.76 S-2 CIVIC CENTER ZONE REGULATIONS

Sections:

- 17.76.010 Title, purpose, and applicability.
- 17.76.040 Required design review process.
- 17.76.050 Permitted activities.
- 17.76.060 Conditionally permitted activities.
- 17.76.070 Permitted facilities.
- 17.76.080 Conditionally permitted facilities.
- 17.76.090 Special regulations applying to certain Commercial Activities.
- ~~17.76.095 — Restrictions on Telecommunications Facilities~~
- 17.76.100 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a nonresidential activity.
- 17.76.110 Use permit criteria for Commercial Activities.
- 17.76.120 Limitations on Signs.
- 17.76.130 Minimum lot area, width, and frontage.
- 17.76.140 Maximum residential density.
- 17.76.150 Maximum floor-area ratio.
- 17.76.160 Maximum height.
- 17.76.170 Minimum yards and courts.
- 17.76.180 Minimum usable open space.
- 17.76.190 Buffering.
- 17.76.200 Special regulations for mini-lot developments, planned unit developments, and large-scale developments.
- 17.76.210 Other zoning provisions.

17.76.070 Permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, are permitted:

A. Residential Facilities:

- One-Family Dwelling
- One-Family Dwelling with Secondary Unit, subject to the provisions specified in Section 17.102.360

Exhibit A

- Two-Family Dwelling
- Multifamily Dwelling
- Rooming House
- B. Nonresidential Facilities:
 - Enclosed
- C. Signs:
 - Residential
 - Special
 - Development
 - Realty
 - Civic
 - Business
- D. Telecommunications:
 - Micro, except when a Major Conditional Use Permit is required by Section ~~17-76-095~~ 17.128.025
 - Mini, except when a Major Conditional Use Permit is required by Section ~~17-76-095~~ 17.128.025

~~17.76.095 — Restrictions on Telecommunications Facilities~~

~~A. Any Telecommunications Facility shall not be permitted in or within one hundred (100) foot of the boundary of any residential zone, except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.~~

~~B. Any Telecommunications Facility whose antennas and equipment are not fully concealed from view shall not be permitted within three hundred (300) feet of the boundary of residential zones R-1 through R-60 inclusive, except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.~~

Chapter 17.78 S-3 RESEARCH CENTER ZONE REGULATIONS

Sections:

- 17.78.010 Title, purpose, and applicability.
- 17.78.020 Required design review process.
- 17.78.030 Permitted activities.
- 17.78.040 Conditionally permitted activities.
- 17.78.050 Permitted facilities.
- 17.78.060 Conditionally permitted facilities.
- ~~17.78.065 — Restrictions on Telecommunications Facilities~~
- 17.78.070 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a nonresidential activity.
- 17.78.080 Performance standards for Commercial Activities.
- 17.78.090 Limitations on Signs.
- 17.78.100 Minimum lot area, width, and frontage.
- 17.78.110 Maximum floor-area ratio.
- 17.78.120 Maximum height.
- 17.78.130 Minimum yards.
- 17.78.140 Buffering and landscaping.
- 17.78.150 Other zoning provisions.

Exhibit A

17.78.050 Permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, are permitted:

- A. Nonresidential Facilities:
 - Enclosed
- B. Signs:
 - Special
 - Development
 - Realty
 - Civic
 - Business
- C. Telecommunications
 - Micro, except when a Major Conditional Use Permit is required by Section ~~17.78.065-17.128.025~~
 - Mini, except when a Major Conditional Use Permit is required by Section ~~17.78.065-17.128.025~~

~~17.78.065 Restrictions on Telecommunications Facilities~~

- ~~A. Any Telecommunications Facility shall not be permitted in or within one hundred (100) feet of the boundary of any residential zone, except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.~~
- ~~B. Any Telecommunications Facility whose antennas and equipment are not fully concealed from view shall not be permitted within three hundred (300) feet of the boundary of residential zones R-1 through R-60 inclusive, except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.~~

Chapter 17.97 S-15 TRANSIT ORIENTED DEVELOPMENT ZONE REGULATIONS

Sections:

- 17.97.010 Title, purpose, and applicability.
- 17.97.020 Required design review process.
- 17.97.030 Special regulations applying to mixed-use developments on Bay Area Rapid Transit (BART) stations on sites with one acre or more land area.
- 17.97.040 Permitted activities.
- 17.97.050 Conditionally permitted activities.
- 17.97.060 Permitted facilities.
- 17.97.070 Conditionally permitted facilities.
- 17.97.080 Special regulations applying to certain Commercial and Manufacturing Activities.

~~17.97.085 Restrictions on Telecommunications Facilities~~

- 17.97.090 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a nonresidential activity.
- 17.97.100 Use permit criteria.
- 17.97.110 Limitations on Signs, marquees, awnings.
- 17.97.120 Minimum lot area, width, and frontage.

Exhibit A

- 17.97.130 Maximum residential density.
- 17.97.140 Maximum nonresidential floor area ratio.
- 17.97.150 Maximum height.
- 17.97.160 Minimum yards and courts.
- 17.97.170 Minimum usable open space.
- 17.97.180 Buffering and landscaping.
- 17.97.190 Special regulations for mini-lot developments.
- 17.97.200 Special regulations for large scale developments.
- 17.97.210 Other zoning provisions.

17.97.060 Permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, are permitted:

- A. Residential Facilities:
 - Multifamily Dwelling
- B. Nonresidential Facilities:
 - Enclosed
 - Sidewalk Cafe
- C. Signs:
 - Residential
 - Special
 - Development
 - Realty
 - Civic
 - Business
- D. Telecommunications:
 - Micro, except when a Major Conditional Use Permit is required by Section ~~17.97.085-17.128.025~~
 - Mini, except when a Major Conditional Use Permit is required by Section ~~17.97.085-17.128.025~~

~~17.97.085 — Restrictions on Telecommunications Facilities~~

- ~~A. Any Telecommunications Facility shall not be permitted in or within one hundred (100) feet of the boundary of any residential zone, except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.~~
- ~~B. Any Telecommunications Facility whose antennas and equipment are not fully enclosed from view shall not be permitted within three hundred (300) feet of the boundary of residential zones R-1 through R-60 inclusive, except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.~~

**Chapter 17.54 C-40 COMMUNITY THOROUGHFARE
COMMERCIAL ZONE REGULATIONS**

Sections:

- 17.54.010 Title, purpose, and applicability.
- 17.54.040 Required design review process.
- 17.54.050 Permitted activities.
- 17.54.060 Conditionally permitted activities.

Exhibit A

- 17.54.070 Permitted facilities.
- 17.54.080 Conditionally permitted facilities.
- 17.54.090 Special regulations applying to certain Commercial Activities.
- ~~17.54.095 — Restrictions on Telecommunications Facilities~~
- 17.54.100 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a nonresidential activity.
- 17.54.110 Limitations on Signs.
- 17.54.120 Minimum lot area, width, and frontage.
- 17.54.130 Maximum residential density.
- 17.54.140 Maximum nonresidential floor-area ratio.
- 17.54.150 Maximum height.
- 17.54.160 Minimum yards and courts.
- 17.54.170 Minimum usable open space.
- 17.54.180 Buffering and landscaping.
- 17.54.190 Special regulations for mini-lot and planned unit developments.
- 17.54.200 Other zoning provisions.

17.54.070 Permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, are permitted:

- A. Residential Facilities:
 - One-Family Dwelling
 - One-Family Dwelling with Secondary Unit, subject to the provisions specified in Section 17.102.360
 - Two-Family Dwelling
 - Multifamily Dwelling
 - Rooming House
- B. Nonresidential Facilities:
 - Enclosed
 - Open
 - Drive-In
 - Sidewalk Cafes, subject to the provisions of Section 17.102.335
- C. Signs:
 - Residential
 - Special
 - Development
 - Realty
 - Civic
 - Business
- D. Telecommunications Facilities:
 - Micro, except when a Major Conditional Use Permit is required by Section ~~17.54.095-17.128.025~~
 - Mini, except when a Major Conditional Use Permit is required by Section ~~17.54.095-17.128.025~~

Exhibit A

~~17.51.095 — Restrictions on Telecommunications Facilities~~

~~A. Any Telecommunications Facility shall not be permitted in or within one hundred (100) foot of the boundary of any residential zone, except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.~~

~~B. Any Telecommunications Facility whose antennas and equipment are not fully concealed from view shall not be permitted within three hundred (300) foot of the boundary of residential zones R-1 through R-60 inclusive, except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.~~

Chapter 17.56: C-45 COMMUNITY SHOPPING COMMERCIAL ZONE REGULATIONS

Sections:

- 17.56.010 Title, purpose, and applicability.
- 17.56.040 Required design review process.
- 17.56.050 Permitted activities.
- 17.56.060 Conditionally permitted activities.
- 17.56.070 Permitted facilities.
- 17.56.080 Conditionally permitted facilities.
- 17.56.090 Restriction on accessory parking and loading within seventy-five feet of front lot line.

~~17.56.105 — Restrictions on Telecommunications Facilities~~

- 17.56.100 Special regulations applying to Convenience Markets, Fast-Food restaurants, and certain establishments selling alcoholic beverages or providing mechanical or electronic games.
- 17.56.110 Special regulations applying to the demolition of a facility containing rooming units or to the conversion of a living unit to a nonresidential activity.
- 17.56.120 Limitations on Signs.
- 17.56.130 Minimum lot area, width, and frontage.
- 17.56.140 Maximum residential density.
- 17.56.150 Maximum floor-area ratio.
- 17.56.160 Maximum height.
- 17.56.170 Minimum yards and courts.
- 17.56.180 Minimum usable open space.
- 17.56.190 Buffering.
- 17.56.200 Special regulations for mini-lot and planned unit developments.
- 17.56.210 Other zoning provisions.

17.56.070 Permitted facilities.

The following facilities, as described in the use classifications in Chapter 17.10, are permitted:

- A. Residential Facilities:
 - One-Family Dwelling
 - One-Family Dwelling with Secondary Unit, subject to the provisions specified in Section 17.102.360
 - Two-Family Dwelling
 - Multifamily Dwelling
 - Rooming House

Exhibit A

- B. Nonresidential Facilities:
 - Enclosed
 - Sidewalk Cafes, subject to the provisions of Section 17.102.335
- C. Signs:
 - Residential
 - Special
 - Development
 - Realty
 - Civic
 - Business
- D. Telecommunications Facilities:
 - Micro, except when a Major Conditional Use Permit is required by Section ~~17.56.105-17.128.025~~
 - Mini, except when a Major Conditional Use Permit is required by Section ~~17.56.105-17.128.025~~

~~17.56.105 — Restrictions on Telecommunications Facilities~~

~~A. Any Telecommunications Facility shall not be permitted in or within one hundred (100) feet of the boundary of any residential zone, except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.~~

~~B. Any Telecommunications Facility whose antennas and equipment are not fully concealed from view shall not be permitted within three hundred (300) feet of the boundary of residential zones R-1 through R-60 inclusive, except upon the granting of a major conditional use permit pursuant to the conditional use permit procedure in Chapter 17.134.~~

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NOTICE AND DIGEST

REPORT AND ORDINANCE, RECOMMENDED BY THE PLANNING COMMISSION, TO: (A) DESIGNATE MICRO AND MINI TELECOMMUNICATIONS FACILITIES AS CONDITIONALLY PERMITTED IN ALL HBX ZONES; (B) AMEND ZONING CODE SECTION 17.134.020(A) TO REQUIRE THE MAJOR CONDITIONAL USE PERMIT PROCEDURE FOR TELECOMMUNICATIONS FACILITIES IN ALL HBX ZONES; (C) AMEND ZONING CODE SECTION 17.128.110 TO REQUIRE THE SITE ALTERNATIVES ANALYSIS PROCEDURE FOR CERTAIN TELECOMMUNICATIONS FACILITIES IN THE HBX ZONES; (D) ADD NEW ZONING CODE SECTION 17.128.025 TO CLARIFY THAT A MAJOR CONDITIONAL USE PERMIT IS REQUIRED FOR TELECOM FACILITIES LOCATING IN CLOSE PROXIMITY TO BOTH RESIDENTIAL AND HBX ZONES; AND (E) MAKE OTHER NON-SUBSTANTIVE CHANGES TO THE ZONING CODE AS NECESSARY FOR CLARITY TO ENACT THIS REGULATION

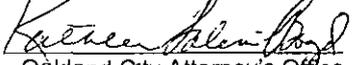
The purpose of this zoning text amendment is to give applications for siting telecommunications facilities in or near the **Housing and Business Mix Zones (HBX-1, HBX-2 and HBX-3)** the same level of regulatory scrutiny as the **Planning Code** currently gives to siting telecom facilities in or near **Oakland's residential zones**.

AMENDED RESOLUTION

FILED
OFFICE OF THE CITY CLERK
OAKLAND

11 JAN 26 PM 4:36

Approved as to Form and Legality


Oakland City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

A CITY RESOLUTION AMENDING CITY COUNCIL RESOLUTION NO. 82682 C.M.S., WHICH AUTHORIZED A CONTRACT WITH MACIAS GINI, & O'CONNELL, LLP TO PROVIDE AUDIT SERVICES (SINGLE AUDIT), TO INCREASE THE CONTRACT FOR SINGLE AUDIT REPORT BY NINETEEN THOUSAND FOUR HUNDRED DOLLARS (\$19,400), FROM EIGHTY-SEVEN THOUSAND TWO HUNDRED THREE DOLLARS (\$87,203) TO ONE HUNDRED SIX THOUSAND SIX HUNDRED THREE DOLLARS (\$106,603) TO COVER TESTING OF TWO ADDITIONAL MAJOR PROGRAMS FOR FISCAL YEAR ENDING JUNE 30, 2010 AND WAIVER OF REQUEST FOR PROPOSALS

WHEREAS, Section 809 of the Charter of the City of Oakland provides for an annual audit by an independent certified public accountant who shall examine and report to the City Council on the annual financial statements of the City; and

WHEREAS, it is the desire of the City Council to engage the services of the firm Macias, Gini & O'Connell, LLP; and

WHEREAS, Resolution No. 82682 C.M.S. was passed on April 20, 2010 which authorized the City Administrator to execute a contract with Macias Gini & O'Connell, LLP to provide audit services for the City of Oakland and Oakland Redevelopment Agency; and

WHEREAS, during the risk assessments of federal programs, Macias Gini & O'Connell, LLP has identified ten (10) federal programs for fiscal year ending June 30, 2010, resulting in two additional major programs that requires testing under the Single Audit;

WHEREAS, Oakland Municipal Code 2.04.051.B authorizes the Council to waive advertising and the request for proposals process upon a finding that it is in the City's best interest to do so; and

AMENDED RESOLUTION

WHEREAS, staff recommends that it is in the City's best interests to waive advertising and the request for proposals process for the additional services to be added to the contract because at the time the City entered its contract with Macias Gini & O'Connell, LLP the requirement for this additional testing was unknown; the current contract involves closely related services; and, the extension of the scope of the contract is reasonable and economical under the circumstances; now, therefore be it

RESOLVED, that the City Council finds and determines the forgoing recitals to be true and correct and hereby adopts and incorporates them into this Resolution; and be it

FURTHER RESOLVED, that pursuant to the Oakland Municipal Code Municipal Code Section 2.04.051.B and for the reasons stated above and in the report(s) accompanying this item, the City Council hereby finds and determines that it is in the best interests of the City to waive the advertising and the request for proposals process for the hiring of an independent certified public account to perform the additional Single Audit services extending the work already being performed by Macias for the City, and be it

FURTHER RESOLVED, that the City Council hereby authorizes the City Administrator to amend the amount of the contract with Macias Gini & O'Connell, LLP in an amount of nineteen thousand four hundred dollars (\$19,400) to pay for the testing of two additional major programs under the Single Audit, for a total contract amount of one hundred six thousand six hundred three dollars (\$106,603); and be it

FURTHER RESOLVED, that the Office of the City Attorney will approve the contract amendment as to form and legality and a copy will be on file in the Office of the City Clerk; and be it

FURTHER RESOLVED, that this Resolution shall take effect immediately upon its passage.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

FILED
OFFICE OF THE CITY CLERK
OAKLAND

11 JAN 26 PM 4:36

Approved as to Form and Legality

Kathleen Salen - Boyd
ORA Agency Counsel

REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

Resolution No. _____ C.M.S.

AN AGENCY RESOLUTION AMENDING CITY COUNCIL RESOLUTION NO. 2010-0048 C.M.S., WHICH AUTHORIZED A CONTRACT WITH MACIAS GINI, & O'CONNELL, LLP TO PROVIDE AUDIT SERVICES, TO INCREASE THE CONTRACT FOR OAKLAND ARMY BASE REPORT BY SIXTY THOUSAND DOLLARS (\$60,000), FROM THREE THOUSAND SIXTY DOLLARS (\$3,060) TO AN AMOUNT NOT-TO-EXCEED SIXTY THREE THOUSAND SIXTY DOLLARS (\$63,060) TO PROVIDE COMPREHENSIVE FINANCIAL STATEMENTS FOR THE YEARS ENDED JUNE 30, 2007, 2008, 2009 AND 2010 AND THE CLOSE-OUT PERIOD ENDED AUGUST 7, 2010 AND WAIVER OF REQUEST FOR PROPOSALS

WHEREAS, the Redevelopment Agency of the City of Oakland requires an annual audit by an independent certified public accountant who shall examine and report to the Redevelopment Agency on the annual financial statements of the Agency; and

WHEREAS, it is the desire of the Agency to engage the services of the firm Macias, Gini & O'Connell, LLP to conduct an audit of the Agency's financial records; and

WHEREAS, Resolution No. 2010-0048 C.M.S. was passed on April 20, 2010 which authorized the City Administrator to execute a contract with Macias Gini & O'Connell, LLP to provide audit services for the City of Oakland and Oakland Redevelopment Agency; and

WHEREAS, it has been determined that the Agency is required to provide for certain required supplementary information (RSI), such as the management's discussion and analysis (MD&A), to supplement the Oakland Army Base Fund's basic financial statements for the years ended June 30, 2007, 2008, 2009 and 2010 and the close-out period ended August 7, 2010; and

WHEREAS, Oakland Municipal Code 2.04.051.B authorizes the Agency Board to waive advertising and the request for proposals process upon a finding that it is in the City's best interest to do so; and

WHEREAS, staff recommends that it is in the Agency's best interests to waive advertising and the request for proposals process for the additional services to be added to the contract because at the time the Agency entered its contract with Macias Gini & O'Connell, LLP the requirement for this additional testing was unknown; the current contract involves closely related services; and, the extension of the scope of the contract is reasonable and economical under the circumstances; now, therefore be it

RESOLVED, that the Agency Board finds and determines the forgoing recitals to be true and correct and hereby adopts and incorporates them into this Resolution; and be it

FURTHER RESOLVED, that pursuant to the Oakland Municipal Code Municipal Code Section 2.04.040.B, the Agency Board hereby finds and determines that it is in the best interests of the City to waive the request for proposal or qualifications process for the hiring of an independent certified public account to perform these additional Single Audit services extending the work already being performed by Macias for the City, the requirement for which was unknown at the time the original contract was awarded to Macias Gini & O'Connell, and be it

FURTHER RESOLVED, that the Agency Board hereby authorizes the City Administrator to amend the amount of the contract with Macias Gini & O'Connell, LLP in an amount not-to-exceed sixty thousand dollars (\$60,000) to pay for certain required supplemental information under the Oakland Army Base Audit, for a total contract amount not-to exceed sixty-three thousand sixty dollars (\$63,060); and be it

FURTHER RESOLVED, that the Agency Counsel will approve the contract amendment as to form and legality and a copy will be on file in the Office of the Secretary of the Agency; and be it

FURTHER RESOLVED, that this Resolution shall take effect immediately upon its passage.

IN AGENCY, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, KAPLAN, KERNIGHAN, NADEL, SCHAAF, REID, DE LA FUENTE and CHAIRPERSON
BRUNNER

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

LaTonda Simmons
Secretary of the Redevelopment Agency
of the City of Oakland, California