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# AGENDA REPORT

TO: DEANNA J. SANTANA  
CITY ADMINISTRATOR

FROM: Kelley Kahn

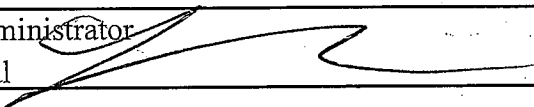
SUBJECT: Oakland Enterprise Zone Program

DATE: August 27, 2013

City Administrator

Date

Approval



9/12/13

COUNCIL DISTRICT: City-Wide

## RECOMMENDATION

Staff recommends that the City Council accept:

**A Report on Oakland's Enterprise Zone analyzing the effects from statewide reform legislation; and adopt:**

**A Resolution Designating A Targeted Employment Area In Accordance With Revised State Law For The Oakland Enterprise Zone Program.**

## EXECUTIVE SUMMARY

In July of this year the State of California passed Assembly Bill 93 (AB93) and Senate Bill 90 (SB90), eliminating the current Enterprise Zone (EZ) Program and replacing it with a new statewide program. These bills redirect \$750 million annually from the current geographically limited EZ program to three new business incentive programs. The new program replaces all existing incentive laws replacing them with a new sales tax benefit and limited income tax incentives, primarily for the manufacturing sector and for certain other businesses located in EZs and other high-unemployment or high-poverty areas.

The current EZ Program is set to expire on December 31, 2013; EZs will continue to operate as usual and issue hiring tax vouchers and collect fees until December 31, 2013. However, if Oakland is designated as one of the five EZ Pilot cities, it may help increase credits to qualified companies in Oakland's EZ.

The statutes governing the current EZ Program require that each zone update its Targeted Employment Area (TEA) within 180 days of new census data becoming available, which the resolution accompanying this staff report would do. The State Housing and Community Development (HCD) Department therefore informed EZs of the requirement in December 2012 for the tax year 2013 because the existing EZ program will remain operating until December 31, 2013 and new census data is available. The City Council must approve updates to the TEA.

Item: 4

CED Committee  
September 24, 2013

## **OUTCOME**

Approval from Council to update and adopt a new TEA establishes “targeted employment areas” composed of census tracts having at least 51 percent of its residents at low or moderate income levels, with the purpose of encouraging businesses in an EZ to hire eligible residents of those geographic areas of the City most in need of employment targeting.

## **BACKGROUND/LEGISLATIVE HISTORY**

The existing State of California EZ Program targets economically distressed areas using special state and local incentives to promote business investment and job creation. By encouraging entrepreneurship and employer growth, the program strives to create and sustain economic expansion in the communities. Most importantly, Enterprise Zones play a key role in linking newly created jobs with individuals in the community who are either underemployed or unemployed. Oakland’s EZ was established in 1993, and in 2008 was awarded another 15 year designation. The zone covers most of the City west of Interstate 580. Oakland’s EZ is now one of 42 statewide.

In 2009, the zone was expanded into Berkeley to cover the property of Bayer, a leading biotechnology company, which was considering leaving the City of Berkeley. Bayer’s inclusion in the Enterprise Zone is expected to save the company more than \$13 million over 10 years, allowing it to begin a \$100 million investment in its Berkeley campus. The move saved 2,000 jobs at Bayer, including those of 200 Oakland residents and created additional revenue for the Oakland EZ Program from the City of Berkeley to administer the expanded zone area.

In 2012, the zone was further expanded into the City of Emeryville (originally expanded in 1998) to include Chiron (now called Novartis) and a newer large portion of businesses. The expansion allowed the original Emeryville EZ businesses to continue the successful program and create and hire jobs for residents of Oakland. Since 1998, Emeryville businesses have hired 80% of their workforce from Oakland’s TEA. The expansion generated a yearly administrative fee from the City of Emeryville to Oakland to operate the new EZ.

The program enables businesses located in the EZ to receive several different tax credits from the California Franchise Tax Board in order to encourage business investment in the EZ areas. The credits can be taken for the hiring of qualified employees, purchase of qualified equipment, for the depreciation of qualified business real property and against net operating losses.

Governor Brown’s proposed State Budget for fiscal year 2011-2012 advocated the elimination of California’s EZ program, including any carry-forward credits similar to the elimination of redevelopment tools. The State Budget for fiscal year 2012-2013 included a new, revenue-neutral set of proposals that would restructure the program.

Item: \_\_\_\_\_  
CED Committee  
September 24, 2013

### ***AB93/SB90***

In July 2013, AB93 and SB90 were passed by the State legislature, replacing the current EZ program with a new sales tax benefit and limited income tax incentives, primarily for the manufacturing sector and for certain other businesses located in EZs and other high-unemployment or high poverty areas. In addition, the Governor's Office of Business and Economic Development (GO-Biz) will have discretion to grant additional tax credits to other businesses; though several of these new incentive provisions will require additional clarification. Current EZs will issue vouchers until December 31, 2013 and businesses can carry forward unused hiring tax credits for 10 years.

### ***EZ Pilots***

SB90 allows for the selection of five EZ Pilots cities by GoBiz. The New employment credits have a wage requirement of \$12 an hour for the hiring credits; however, EZ Pilot cities may issue credits at \$10 an hour, increasing the availability of credits to qualified Oakland businesses. If selected, Oakland may be able to issue the credits and continue to receive hiring tax voucher revenue. In July Mayor Quan submitted a letter to the Governor's office seeking consideration of Oakland as one of the EZ Pilots.

### **ANALYSIS**

#### ***Status of Current State EZ Program***

The EZ Program will continue to issue hiring tax vouchers until December 31, 2013 unless otherwise notified and/or Oakland is selected as one of the five EZ Pilots. The State Department of Finance stated that there will be a technical clean-up bill introduced by September that will address vouchering beyond December 31, 2013 and the myriad of issues associated with the winding down of the program. EZ businesses will be able to carry forward unused hiring tax credits for the next ten years.

Staff is working diligently with the California Association of Enterprise Zones (CAEZ) on a media relations and outreach plan to inform Oakland EZ businesses to submit hiring credit voucher requests prior to the deadline of December 31, 2013. The plan will encourage existing and new clients to take advantage of the current tax credits before they are replaced with the Governor's new economic development programs.

### ***Council Adoption of Updated TEA***

The statutes governing the current EZ Program require that each zone update its Targeted Employment Area (TEA) within 180 days of new census data becoming available. The State Housing and Community Development (HCD) Department therefore informed EZs of the requirement in December 2012 for the tax year 2013 because the existing EZ program will remain operating until December 31, 2013 and new census data is available. The adoption of a new TEA under the current EZ statute, Government Code Section 7072 (i) (4) (A); allows Oakland to update the current TEA and continue to issue vouchers based on TEA eligibility criteria, effective retroactively to January 1, 2013. The current TEA includes 88 census tracts and the new proposed TEA includes 90 census tracts. Each of these census tracts has been determined by the United States Department of Housing and Urban Development to have at least 51 percent of its residents at or below low or moderate income levels. This will be the last year that EZ businesses can use the updated TEA, increasing their ability to obtain credits for hiring Oakland residents. The City Council must approve updates to the Oakland TEA.

### ***New Program – AB93 and SB90***

The new economic development programs pursuant to AB93 and SB90 are described briefly below.

#### ***1. Manufacturing and Sales & Use Tax Exemption***

The existing sales tax credit for businesses located in EZs will be expanded to a statewide sales tax exemption on manufacturing equipment or research and development equipment purchases by companies engaged in manufacturing or biotechnology research and development. A business will be allowed to exclude the first \$200 million equipment purchases from the state share of sales tax (4.19%) beginning on July 1, 2014. The sales tax exemption will be available statewide until June 30, 2022.

#### ***2. New employment hiring credit***

A hiring credit will now be available for businesses located in census tracts with the 25 percent highest share of both unemployment and poverty in the state. The hiring credit also applies to current Local Agency Military Base Recovery Areas (LAMBRA) and EZ boundaries excluding wealthy areas. The hiring credit will be available for the hiring of long-term unemployed workers, veterans within 12 months of separation from service, people receiving the Federal earned income tax credit, ex-offenders and recipients of CalWorks or general assistance. The hiring credit will only be allowed to businesses that have a net increase in jobs. The hiring credit will be 35 percent of wages between 1.5 and 3.5 times the minimum wage for a period of five years. In five pilot areas designated by GO-Biz, the credit will be calculated on wages starting at \$10 per hour. The hiring credit is available for employees hired between January 1, 2014 and January 1, 2012.

Item: \_\_\_\_\_  
CED Committee  
September 24, 2013

**3. Investment Incentive – the California Competes Credit**

The California Competes Credit will be created and administered by GO-Biz. Businesses will have the opportunity to compete for available tax credits. Criteria for competition includes the number of jobs to be created or retained, the extent of poverty in a business development area, a minimum compensation limitation and a set job retention period. Approval of any proposed incentive will be made by a five member committee composed of a representative from the Treasurer’s office, Department of Finance, GO-Biz, the CA Senate and CA Assembly. Approved credits may be recaptured if a business fails to fulfill the terms and conditions of the contract. 25% of these credits will be designated for small businesses.

**The following tables present a comparison between the Current EZ program and the State’s new program under AB93 and SB90:**

<b>1. MANUFACTURING EQUIPMENT SALES TAX EXEMPTION</b>	<b>CURRENT EZ PROGRAM</b>	<b>NEW PROGRAM AB93 &amp; SB90</b>
<b>Incentive Type</b>	<ul style="list-style-type: none"> <li>Income Tax Credit</li> </ul>	<ul style="list-style-type: none"> <li>Sales Tax Exemption</li> </ul>
<b>Value of Incentive</b>	<ul style="list-style-type: none"> <li>Limited by income earned in the zone</li> </ul>	<ul style="list-style-type: none"> <li>Eliminates California portion of sales tax (4.19%)</li> </ul>
<b>Maximum Annual Amount</b>	<ul style="list-style-type: none"> <li>\$1 million of equipment for non-corporations; \$20 million for corporations</li> </ul>	<ul style="list-style-type: none"> <li>\$200 million of equipment regardless of entity type</li> </ul>
<b>Getting The Incentive</b>	<ul style="list-style-type: none"> <li>Claim made when annual income tax return is filed</li> </ul>	<ul style="list-style-type: none"> <li>Benefit immediate - no state tax paid at time of purchase</li> </ul>
<b>Business Location</b>	<ul style="list-style-type: none"> <li>Must locate in enterprise zone</li> </ul>	<ul style="list-style-type: none"> <li>Anywhere in California</li> </ul>
<b>Equipment Qualified for Tax Incentive</b>	<ul style="list-style-type: none"> <li>Basic manufacturing equipment - no research and development</li> </ul>	<ul style="list-style-type: none"> <li>Basic manufacturing equipment &amp; R&amp;D for manufacturing &amp; biotech</li> <li>Addition of necessary TI (ex: clean rooms)</li> </ul>

2. HIRING CREDIT	CURRENT EZ PROGRAM	NEW PROGRAM AB93 & SB90
Middle Class Wages	<ul style="list-style-type: none"> <li>\$36,000 per employee (five year total, 2,000 hours)</li> </ul>	<ul style="list-style-type: none"> <li>\$56,000 per employee (five year total, 2,000 hours)</li> </ul>
Credit Calculation	<ul style="list-style-type: none"> <li>50% of wages in first year. Declines 10% each year to zero for a total of 150%</li> </ul>	<ul style="list-style-type: none"> <li>35% of wages each year for a total of 175%</li> </ul>
Employee Qualifications	<ul style="list-style-type: none"> <li>Extensive</li> <li>Consultants hired to claim business' credits for them</li> </ul>	<ul style="list-style-type: none"> <li>Persons unemployed 6 months, veterans within one year of separation, Earned Income Tax Credit recipients, ex-offenders and recipients of CalWorks or general assistance.</li> </ul>
Poverty Area Targeting	<ul style="list-style-type: none"> <li>Zone boundaries are gerrymandered for interests other than reducing poverty</li> </ul>	<ul style="list-style-type: none"> <li>Areas based on census tracts with highest unemployment and poverty rates as well as LAMBRAS and current enterprise zone boundaries (excluding wealthy areas).</li> </ul>
Retroactive Availability	<ul style="list-style-type: none"> <li>Yes</li> </ul>	<ul style="list-style-type: none"> <li>No</li> </ul>
Credit to Replace Current Employees	<ul style="list-style-type: none"> <li>Yes - common use of program</li> </ul>	<ul style="list-style-type: none"> <li>No - employer gets credit only for increasing jobs</li> </ul>
Incentive Transparency	<ul style="list-style-type: none"> <li>No - tax information is confidential</li> </ul>	<ul style="list-style-type: none"> <li>Yes - Tax credit info will be publicly posted on FTB webpage</li> </ul>

<b>3. CALIFORNIA COMPETES INCENTIVE CREDIT</b>	<b>CURRENT EZ PROGRAM</b>	<b>NEW PROGRAM AB93 &amp; SB90</b>
<b>Incentive Transparency</b>	<ul style="list-style-type: none"> <li>• No - Tax information is confidential</li> </ul>	<ul style="list-style-type: none"> <li>• Yes - All California Competes incentive awards will be made public and award information must be posted on the GO Biz webpage</li> </ul>
<b>Expanding Businesses</b>	<ul style="list-style-type: none"> <li>• Businesses can only expand in an enterprise zone</li> </ul>	<ul style="list-style-type: none"> <li>• Location can be anywhere in California</li> </ul>
<b>Return On Taxpayer Dollars</b>	<ul style="list-style-type: none"> <li>• Incentivizes low paying jobs</li> </ul>	<ul style="list-style-type: none"> <li>• GO-Biz negotiates amount of credit based on factors including the number of jobs, location and new capital investment</li> </ul>

**PUBLIC OUTREACH/INTEREST**

In February of this year, HCD held a public hearing in Oakland on EZ reform legislation. EZ businesses sent over 10,000 letters to legislators and the Governor’s office pleading to preserve the EZ Program. Mayor Quan and economic development leaders and EZs held press conferences, numerous meetings with legislators and the Governor.

Staff periodically sends out email blasts regarding the status of the program to registered EZ businesses and will now reach out to EZ businesses that have not taken the credit urging them to take advantage of the credit before the deadline of December 31, 2013. A proposed new ending date of April 15, 2014, being discussed with the Governor’s office would allow businesses to obtain a hiring tax certificates for the year ending December 31, 2013 until April 15, 2014.

Staff, in conjunction with CAEZ, is developing a media relations and outreach plan to:

1. Increase EZ exposure.
2. Further build key stakeholder support.
3. Highlight EZ benefits.
4. Cultivate new zone clients

Item: \_\_\_\_\_  
 CED Committee  
 September 24, 2013

5. Target existing zone clients

Staff will utilize the media, key third parties and stakeholders to help Oakland businesses benefit from the EZ hiring tax credits.

**COORDINATION**

This report and resolution have been reviewed by the Office of the City Attorney and the Budget Office.

**COST SUMMARY/IMPLICATIONS**

The Oakland EZ Program and staffing (1.0 FTE) is funded entirely by fee revenue from tax credit vouchers. The total program budget is \$360,000 for FY 2013/2014. EZ voucher revenue for FY 2012/2013 was \$404,418.95.

EZs will continue to issue vouchers and collect fees until December 31, 2013. Details on vouchering after December 31, 2013 are being worked on by the Governor's office that may allow EZs to issue vouchers until April 15, 2014, allowing EZ businesses to request and submit hiring tax vouchers for the tax year ending December 31, 2013. It is most certain that if Oakland is not chosen as one of the five EZ Pilot cities, we may lose or reduce the amount of voucher revenue beginning December 31, 2013 or April 15, 2014.

Staff recommends Council to adopt the TEA Resolution that will update the current TEA and allow EZ businesses to continue requesting hiring tax vouchers until December 31, 2013, and the program to collect revenue for issuing TEA vouchers.

**SUSTAINABLE OPPORTUNITIES**

***Economic:*** EZ incentives encourage business investment and promote the creation of new jobs. The hiring tax credit targets low-income and disadvantaged residents in finding and retaining jobs, including the unemployed, victims of lay-offs, and public assistance recipients.

***Environmental:*** The local hiring incentive of the Oakland EZ reduces travel time to work and thus cuts down on traffic congestion and air pollution in the region.

***Social Equity:*** The EZ offers tax incentives to businesses that hire people who were previously unemployed and/or who have barriers to employment, such as at-risk youth and ex-offenders.

Item: \_\_\_\_\_  
CED Committee  
September 24, 2013

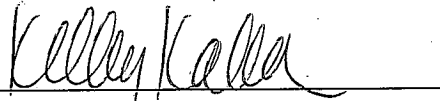


CEQA

This report is not a project under CEQA.

For questions regarding this report, please contact Susana Villarreal, Enterprise Zone Coordinator, at (510) 238-7794.

Respectfully submitted,



Kelley Kahn, Director, Economic and  
Workforce Development

Reviewed by:

Aliza Gallo, Economic Development Manager

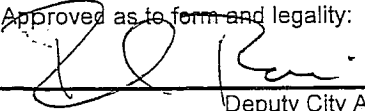
Prepared by:

Susana Villarreal, Enterprise Zone Coordinator

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2013 SEP 13 AM 9:29

Approved as to form and legality:

  
Deputy City Attorney

## OAKLAND CITY COUNCIL

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

### RESOLUTION DESIGNATING A TARGETED EMPLOYMENT AREA IN ACCORDANCE WITH REVISED STATE LAW FOR THE ENTERPRISE ZONE PROGRAM

**WHEREAS**, the Oakland Enterprise Zone was established on September 27, 2008, in the City of Oakland pursuant to the Enterprise Zone Act (Government Code Sections 7070 et seq.) as adopted by the State of California in 1984; and

**WHEREAS**, on September 29, 2006, the State revised the Enterprise Zone Act by Assembly Bill 1550; and

**WHEREAS**, the Enterprise Zone Act, as amended, require all Enterprise Zones to redraw Targeted Employment Areas within 180 days of new census data becoming available; and

**WHEREAS**, the amended Enterprise Zone Act allows the City Council of the City of Oakland to designate those census tracts which are most in need of this employment targeting pursuant to the Enterprise Zone Act; now, therefore, be it

**RESOLVED:** That the following census tracts lying completely or partially within the territorial jurisdiction of the City of Oakland have been designated by the United States Department of Housing and Urban Development as having at least 51 percent of their residents at low to moderate income levels, and are most in need of employment targeting pursuant to the Enterprise Zone Act:

4003, 4005, 4006, 4007, 4008, 4009, 4010, 4011, 4012, 4013, 4014, 4015, 4016, 4017, 4018, 4022, 4024, 4025, 4026, 4027, 4028, 4029, 4030, 4031, 4033, 4034, 4035.01, 4035.02, 4036, 4037.01, 4037.02, 4039, 4040, 4041.01, 4041.02, 4049, 4055, 4053.01, 4053.02, 4054.01, 4054.02, 4055, 4056, 4057, 4058, 4059.01, 4059.02, 4060, 4061, 4062.01, 4062.02, 4063, 4064, 4065, 4066.01, 4066.02, 4068, 4070, 4071.01, 4071.02, 4072, 4073, 4074, 4075, 4076, 4077, 4078, 4082, 4083, 4084, 4085, 4086, 4087, 4088, 4089, 4090, 4091, 4092, 4093, 4094, 4095, 4096, 4097, 4098, 4101, 4102, 4103, 4104, 4105; and be it

4  
COMMUNITY & ECONOMIC  
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SEP 24 2013

**FURTHER RESOLVED:** That a Targeted Employment Area composed of the census tracts specified above and having boundaries created by grouping these census tracts together is hereby approved; and be it

**FURTHER RESOLVED:** That the City Administrator is hereby authorized to submit to the California Department of Housing and Community Development an application seeking approval by the Department of the above Targeted Employment Area, and to take any other action with respect to this program consistent with this Resolution and its basic purposes.

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

**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT  
KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

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

4

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SEP 24 2013