

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

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
2005 JUN 16 PM 9:11

TO: Office of the City Administrator/Agency Administrator  
ATTN: Deborah Edgerly  
FROM: Community and Economic Development Agency  
DATE: June 28, 2005

RE: **CITY AND REDEVELOPMENT AGENCY RESOLUTIONS AUTHORIZING THE AGENCY TO ENTER INTO AN ELEVENTH AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT WITH SHORENSTEIN REALTY INVESTORS THREE, L.P., REGARDING THE CITY CENTER PROJECT: (1) ALLOWING FOR A RESIDENTIAL LAND USE OPTION ON BLOCK T-12; (2) ESTABLISHING EIGHT MILLION ONE HUNDRED THOUSAND DOLLARS (\$8,100,000) AS THE RESIDENTIAL SALES PRICE FOR BLOCK T-12; (3) REDUCING THE TIME LIMIT TO DEVELOP BLOCK T-12 BY THREE YEARS, TO A ONE YEAR OPTION TO PURCHASE; AND (4) EXTENDING THE TIME LIMIT TO DEVELOP BLOCKS T-5/6 BY FOUR YEARS TO DECEMBER 31, 2013**

---

**SUMMARY**

Resolutions have been prepared authorizing the Redevelopment Agency to enter into an Eleventh Amendment to the Disposition and Development Agreement ("DDA") with Shorenstein Realty Investors Three, L.P. ("Shorenstein"), regarding the City Center Project:

- (1) Allowing for a residential land use option on Agency-owned real property located on the block bounded by 12<sup>th</sup> Street, 11<sup>th</sup> Street, Jefferson Street and Martin Luther King, Jr. Way, known as City Center Block T-12 ("Block T-12" or the "Project");
- (2) Establishing \$135 per square foot, or eight million one hundred thousand dollars (\$8,100,000) for the entire 60,000 square foot parcel, as the residential sales price for Block T-12;
- (3) Reducing the time limit to develop Block T-12 by approximately three years, to a one year option to purchase (from December 31, 2009 to approximately Summer 2006); and
- (4) Extending the time limit to develop the Agency-owned real property located on the western half of the block bounded by 12<sup>th</sup> Street, 11<sup>th</sup> Street, Clay Street and Broadway, known as the City Center Blocks T-5/6, by four years from December 31, 2009 to December 31, 2013.

The resolutions will authorize the Agency Administrator to enter into an Eleventh Amendment to the DDA with Shorenstein for the future sale and development of Block T-12 for a medium- to

high-density residential condominium project to be constructed in two phases, with parking. However, it should be noted that Shorenstein will retain its existing option to develop office space on Block T-12 during its one year option period; the approximate purchase price for developing an office use would be \$4,800,000.

Ownership of Block T-12 will not be transferred to Shorenstein upon execution of the amendment to the DDA. However, under this Amendment, Shorenstein shall be granted:

- An option for a term of one (1) year from the date of execution of the DDA Amendment (the "Phase 1 Option"), to purchase approximately half of the Property (**either the Western or Eastern Property**) of Block T-12 from the Agency at \$135 per square foot, and start construction on Phase 1 within eighteen (18) months of the purchase; and
- An option for a term of one (1) year from the date of execution of the DDA amendment (the "Phase 2 Option"), to purchase **the remaining half of the Property** of Block T-12 from the Agency at \$135 per square foot, and start construction on Phase 2 within three (3) years of the purchase.

**Shorenstein will have the right to subdivide the Property into the proper configuration for the two phases. Shorenstein also has the right to determine the order in which the Eastern and Western Properties are developed.** If Shorenstein does not begin construction on either phase within the required time frame the Agency will have the option to purchase back the relevant portions of Block T-12 for the original sale price.

In addition, the DDA Amendment will continue to give Shorenstein an option on Blocks T-5/6 provided that the time period in which Shorenstein will have to purchase and begin construction will be extended by four years, from December 31, 2009 to December 31, 2013. During the extension period, 2010-2013, the purchase price would be adjusted to the current market rate at the time of sale. Shorenstein will pay the Agency an annual option fee of \$25,000 until the final site is purchased. If the parcel is not purchased by December 31, 2013, ownership reverts back to the Agency. (See Attachment A, Business Terms, and Attachment B, Comparison of City Center DDA Terms)

## **FISCAL IMPACTS <sup>1</sup>**

Approval of the Eleventh Amendment to the DDA and future sale of Block T-12 will generate \$8.10 million in land sales proceeds, minus closing costs and incremental remediation costs. Close of escrow is anticipated in Summer 2006. Because the City owns Block T-12, the Agency will purchase the site from the City and sell it to Shorenstein in a double escrow, with the net

---

<sup>1</sup> For the purposes of calculating the fiscal impact of the T-12 Project to the Agency and City, Staff has assumed a conservative development scenario, whereby Phase 1 consists of 125 units having an estimated average residential sales price of \$382,500 per unit, and Phase 2 consists of 125 units having an estimated average residential sales price of \$399,500 per unit. An average unit size of 850 square feet was used for purposes of calculations. A two percent growth factor in Assessed Project Value was used, to project fiscal impacts throughout the life of the Redevelopment Plan.

sales proceeds going to the City. This money will be available to the City after the sale is completed.

The project will also produce an estimated \$578,000 in general tax increment revenue, net of all pass throughs and set-asides, plus \$293,000 for the Low and Moderate Income Housing Fund for the Redevelopment Agency in the first full tax year after project completion, estimated to be FY 2011-12. Between 2007 (when tax increment would first be received from the Project) and 2022 (the end of the Central District Redevelopment Plan), the Project will generate approximately \$7,873,000 in tax increment revenue for the Central District and \$4,000,000 for the Low and Moderate Income Housing Fund (see Attachment C, Tax Increment Analysis).

This is a Redevelopment Agency project and as such there will be no significant negative impact on the General Fund. The project will generate approximately \$81,700 in property tax in the first full year after project completion, estimated to be FY2011-12, and approximately \$1,113,000 over the remaining life of the Central District Plan, which the City will receive as part of the pass throughs to other taxing entities. The project should also support retail and entertainment activities in the downtown and throughout Oakland, which will generate additional sales tax and business license tax revenue for the City.

Regarding Blocks T-5/6, extending the time limit to develop Blocks T-5/6 from December 31, 2009 by four years to December 31, 2013 may delay property tax revenue for the City and Agency, including the Agency's Low and Moderate Income Housing Fund. Regardless of the time extension, no project on this site will be developed until market conditions support it. By extending the term on this site, the Agency will be restricting development until the office market recovers. While residential and other uses might be developed sooner and generate property tax revenue faster, keeping the site for office development is a deliberate strategy to allow future expansion in the core of the downtown.

## **BACKGROUND**

The Agency has maintained a Disposition and Development Agreement for a twelve-block area of Downtown Oakland, including Blocks T-12 and T-5/6, for almost thirty-five years. The original DDA between the Agency and Grubb & Ellis Company included the entire twelve-block area and was executed on November 4, 1970.

As a result of various factors reflecting the changing local and regional market conditions, this Disposition and Development Agreement has since been amended a number of times, including: a First Amendment to the DDA dated March 20, 1972, and Second Amendment dated August 29, 1974, a Third Amendment dated January 6, 1976, a Fourth Amendment dated March 1, 1976, a Fifth Amendment dated January 14, 1980, a Sixth Amendment dated July 9, 1982, a Seventh Amendment dated August 1, 1988, an Eight Amendment dated December 20, 1996, a Ninth Amendment dated May 17, 2000, and a Tenth Amendment dated August 23, 2002.

Under the Eighth Amendment to the DDA the rights of the developer were assigned from Oakland Centre City, Inc., to Shorenstein Realty Investors Three, L.P. ("Shorenstein"), which set forth the terms and conditions of the sale of the Properties, including Blocks T-12 and T-5/6, to Shorenstein and governs the development of projects on these parcels and the use of the parcels by Shorenstein and any successors to the parcels subsequent to sale through recorded covenants running with the land.

With the initiation of the "10K Downtown Housing Program" in 1999 to attract ten thousand new residents into the Central District, the Agency and City have continued to focus policy on the development of new housing in part by offering Agency- and City-owned land to developers for the construction of housing. Reflecting this shift in emphasis away from the stagnant office market, the Tenth Amendment to the DDA in 2002 released Block T-10, originally slated for a high-rise office building, to the Agency who subsequently sold it to Olson Urban Housing for the construction of approximately 250 condominiums, and extended development rights on Blocks T-5/6 and T-12 to December 31, 2009.

The Eleventh Amendment to the DDA, which is the subject of this staff report and accompanying resolutions, would allow for a residential land use option on Block T-12, establish \$8,100,000 as the residential sales price for the entire Block T-12, and require a twelve-month purchase option on the parcel following DDA execution. A vacant land appraisal of Block T-12 by the Agency's Real Estate Services Division dated April 11, 2005 estimated the value of Block T-12 to range between \$8,400,000 or \$140 per square foot and \$7,800,000 or \$130 per square foot, for the 60,000 square foot parcel. The appraisal estimated fair market value of Block T-12 to be \$8,100,000 or \$135 per square foot. The price for office use will remain approximately \$4,800,000.

In addition, the Eleventh Amendment to the DDA would extend the time limit for Shorenstein to develop Blocks T-5/6 by four years, until December 31, 2013. During the extension period, 2010-2013, the purchase price would be adjusted to the current market rate at the time of sale.

## **PROJECT DESCRIPTION**

### **Location**

The City Center T-12 Project will be located on the parcel bound bounded by 12<sup>th</sup> Street, 11<sup>th</sup> Street, Jefferson Street and Martin Luther King, Jr. Way. The site is located to the east of Landmark Place, a 92-unit residential condominium project, to the south of the City Center West Garage, to the southwest of the Ronald Dellums Federal Building, to the west of 555 City Center, the new 20-story Shorenstein office building (Block T-9), and to north of Lafayette Park. City Center Blocks T-5/6 are located on approximately the western half of the parcel bound bounded by 12<sup>th</sup> Street, 11<sup>th</sup> Street, Clay Street and Broadway. The site is located to the east of

555 City Center, to the south of the City Center complex, to the west of the APL Building, and to the north of the Kaiser Convention Center.

### **T-12 Project Scope**

The City Center T-12 Project, as currently proposed by Shorenstein, would replace the former 500,000 square foot office tower approved as part of the entire City Center Project (“Original Project”) with one of two options for residential development ranging between approximately 300,000 and 475,000 square feet. Depending on market conditions, the Project could consist of a mid-rise or a combination mid- and high-rise development:

**Table 1. Developer’s Estimated Scope for T-12 Residential Project**

Western Property	Approximately 144 units (8-stories, 2 levels parking)	
Eastern Property	<b>Option 1 (“Mid-Rise”):</b> 140 units (8-stories, 2 levels parking)	<b>Option 2 (“Mid- and High-Rise”):</b> 306 units (25-stories, with 8-story podium, 3 levels parking)
<b>TOTAL</b>	<b>Approximately 284 units</b>	<b>Approximately 450 units</b>

Development which includes Eastern Property Option 1 would consist of approximately 284 market-rate studio, one-bedroom and two-bedroom residential units with an equal number of parking spaces in two adjoining eight-story buildings above two levels of primarily below-grade parking. Development under Eastern Property Option 2 would include approximately 450 residential units of a similar mix in a 25-story tower beside the two eight-story podiums above three levels of primarily below-grade parking. Depending on market conditions, project construction under either option could occur in one or two phases, and Shorenstein has the right to determine the order in which the Eastern and Western Properties are developed. (See Attachment D, Project Summary, and Attachment E, Project Schematic Design).

The residential units will average approximately 800 square feet in size and will range from approximately 420 square feet to 1,425 square feet. In addition to the large courtyard, private open space will be provided via a combination of private patios, deck, and/or balconies. Material and color changes will be used to distinguish different portions of the buildings in order to provide visual interest and to reduce the apparent bulk and massing of the buildings. The palette of proposed materials will be fully developed in conjunction with final development approval. Parking and loading access would be provided on 12<sup>th</sup> Street.

### **The Developer**

The development entity for this project is Shorenstein Realty Investors Three, L.P., a California limited partnership. Shorenstein Realty Investors Three was formed in July 1996 with \$113.5 million of committed equity and is the company’s third of seven real estate investment funds.

operates more than 22 million square feet of prime office space nationwide in major markets such as San Francisco, Chicago and New York. Since 1992, the company has invested through a series of real estate investment funds, the first six of which attracted \$1.5 billion in total equity. The funds have acquired and developed about 16 million square feet of Class A office properties throughout the US. Shorenstein Realty Investors Seven, the company's largest fund to date, closed to investors in February 2004 after raising \$775 million in equity. For more information on Shorenstein Company, visit the company's web site at <http://www.shorenstein.com>.

It must be noted that Shorenstein is not a residential developer. The Eleventh Amendment to the DDA will require Shorenstein to joint venture with a housing developer, the selection of which is subject to Agency approval.

**T-12 Project Budget and Financing**

Shorenstein is estimating a total project cost of approximately \$85.4 million, as shown in Table 2. Cost estimates are based on the developer's most conservative development scenario, a 250 unit project, having an average unit size of 850 square feet. This development budget equates to about \$342,000 per unit or \$400 per square foot, which is generally consistent with residential development of this type in Downtown Oakland.

**Table 2. Developer's Estimated Costs for T-12 Residential Project  
 (most conservative scenario @ 250 units)**

DESCRIPTION	COST		
	(/Unit)	(/Sqft)	Total
Land Acquisition including closing costs	\$32,400	\$38	\$8,100,000
Construction Costs	\$231,141	\$272	\$57,785,125
Financing Costs	\$19,117	\$22	\$4,779,125
Soft Costs, Closing, and Other Costs	\$59,058	\$69	\$14,764,500
<b>Total Project Costs</b>	<b>\$341,715</b>	<b>\$402</b>	<b>\$85,428,750</b>

**T-12 Project Schedule**

The execution of the Eleventh Amendment to the DDA will trigger the option to acquire all or a portion of Block T-12 by Shorenstein. Major milestones and dates of completion are anticipated as follows:

**Table 3. Developer's Estimated Schedule for T-12 Residential Project**

Description	PHASE 1	PHASE 2
Acquisition of the Project Site	Summer 2006	Summer 2006
Construction Start	Winter 2008	Summer 2009
Construction Complete	Winter 2010	Summer 2011

According to the timeline provided above, occupancy of Phase 1 units should start in approximately 2010 and occupancy of Phase 2 units should start in approximately 2011.

## **KEY ISSUES AND IMPACTS**

### **Other Development Options**

It should be noted that Shorenstein may purchase only a portion of Block T-12. However, if Shorenstein only purchases a portion of the site, the Agency would have the right to select another developer and sell the remainder of the site in Summer 2006. Shorenstein could also develop the site in a mixed office and residential project.

Also, most similar redevelopment transactions require the developer to immediately commence construction when the developer actually buys the property. Unlike the typical transaction, in this case, Shorenstein has 18 months and 3 years, respectively, **after** it buys all or a portion of Block T-12 to **start** construction. Accordingly, actual development of the property could be significantly delayed.

It should also be noted that Shorenstein will retain its existing option to develop office space on Block T-12 during its one year option period; the approximate purchase price for developing an office use would be \$4,800,000.

### **CEQA Review**

Background - Shorenstein prepared an Environmental Impact Report (“EIR”) for the Original Project or “Original City Center Project”, including Blocks T-9, T-10, T-12, and T-5/6. The EIR was certified by the Planning Commission on April 26, 2000, with the Original Project consisting of office buildings (and limited residential uses proposed on T-10). In 2002, Block T-9 was developed by Shorenstein as a high-rise office building. Subsequent to this certification and prior to 2003, market demand for office space declined while interest in developing housing increased. As a result of this, in October 2003 an Addendum to the City Center EIR (“Addendum #1”) was prepared for a modified project on Block T-10, considering a change in land use from mostly office development, to a residential development not to exceed 24 stories and 400 units. Block T-10 is currently under construction with The Olson Company as the residential developer, and will consist of seven stories (251 units), and 2,600 square feet of ground floor commercial space. A similar process now applies to Block T-12. The originally proposed development for T-12 consisted of a 26-story office building having approximately 584,000 square feet of office space. A second addendum to the City Center EIR, (“Addendum #2”) has been prepared for the proposed change in land use for Block T-12 from office development to a residential development consisting of approximately 284-450 units (depending on the selection of development options for each phase of the Project).

No change in land use is proposed in this report for Blocks T-5/6.

Subsequent Review Required - Under the California Environmental Quality Act ("CEQA"), once an EIR has been certified, no subsequent or supplemental EIR is required for the project unless the lead agency determines that:

- 1) Substantial changes are proposed in the project which will require major revisions to the previous EIR due to new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- 2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions to the previous EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- 3) New information of substantial importance, which was not known and could not have been known at the time the previous EIR was certified, shows that the project will have a significant effect not considered in the previous EIR, will be substantially more severe than shown in the previous EIR, mitigations or alternatives to the project previously found to be infeasible would in fact be feasible, or new mitigation measures or alternatives not discussed in the previous EIR would substantially reduce a significant environmental effect.

As previously described above, changes are proposed to Block T-12 which would replace the 26-story office development approved in the Original Project with either 284 residential units in two eight-stories or 450 residential units in two eight-story buildings and a 25-story tower. Addendum #2 was prepared by Shorenstein to evaluate the differences between the potential environmental effects analyzed in the Original Project and the potential environmental effects resulting from the proposed residential project on Block T-12. As part of this evaluation, Addendum #2 considers the factors listed above to determine if a subsequent or supplemental EIR should be prepared. This Addendum concludes, based on the revised project, that there are no substantial changes that would require major revisions to the previous EIR, including changes in circumstances as a result of project modifications that would cause new or more intense significant impacts or new information of substantial importance that identifies new or more intense significant impacts. Under both options presented, the revised T-12 Project provides more parking than the 220 spaces proposed in the Original Project and the maximum building height would be reduced. Similarly, none of the project changes would result in new significant environmental impacts, or impacts that would be substantially more severe than those identified in the EIR for the Original Project.

In general, the revised T-12 Project would generate approximately 71 percent less traffic than the office space evaluated in the Original Project and would direct vehicles out of the downtown area during the a.m. peak hours and toward the downtown during the p.m. peak hour. Although the Level of Service ("LOS") would continue to be below acceptable levels at the intersection of 12<sup>th</sup> and Brush Streets, the revised T-12 Project would not be considered to result in a more



severe impact than reported in the 2000 EIR. Cumulative impacts on air quality resulting from traffic emissions and traffic noise, and occurrences of the generation of wind above 36 mile per hour would also be reduced with the revised project, but continue to be considered significant and unavoidable impacts, as identified in the 2000 EIR.

Accordingly, the proposed action (authorization of the Agency and City to enter into an Eleventh Amendment to the DDA, mainly for the revised T-12 project to include residential development), is consistent with the environmental setting, environmental impacts and mitigation measures set forth in the originally certified 2000 EIR and Addendum #2 and no Subsequent or Supplemental EIR is required. The City Center EIR adopted in April 2000, and Addendum #2 for the proposed revisions to Block T-12, have been provided to the City Council and are available from the Planning Department (250 Frank Ogawa Plaza, 3<sup>rd</sup> Floor, Oakland, CA 94612). They should be considered by the Council and the Agency when considering the Eleventh Amendment to the DDA with Shorenstein regarding the City Center Project.

### **Environmental Remediation**

Per the current DDA (up to and including the Tenth Amendment to the DDA, executed August 2002), Shorenstein shall be responsible for most site cleanup, shoring and excavation, and soil transport costs necessary to bring the level of hazardous substances on the acquired site within mutually agreed legal standards. The Agency will cover incremental remediation costs, described as other incremental construction, removal and disposition costs reasonably incurred by Shorenstein, including project management, environmental consultant and other costs. Once the exact project is determined, a cost estimate will be developed based on the amount of soil to be excavated from the T-12 site. This cost, estimated at \$800,000, will reduce the purchase price paid by Shorenstein and will be held in escrow, to be withdrawn by Shorenstein during the remediation process. The existing DDA authorizes subtracting the incremental remediation cost from the net sales proceeds, with the Agency/City receiving funds remaining in escrow after remediation is complete. Shorenstein shall purchase the T-12 site in an "as is" condition subject to the payment by the Agency of incremental remediation costs in accordance with the terms of the current DDA.

### **SUSTAINABLE OPPORTUNITIES**

#### ***Economic***

The proposed project will take an underutilized site and convert it to better economic use. Between 2007 (when tax increment is first captured for the Project) and 2022 (the end of the Central District Redevelopment Plan), the T-12 residential project will generate approximately \$1,113,000 in property tax revenue for the City's General Fund and approximately \$7,876,000 in tax increment for the Redevelopment Agency. If Shorenstein were to develop an office project on T-12 instead, during this same time span the project would generate approximately \$1,196,000 in property tax revenue for the City's General Fund and approximately \$8,456,000 in tax increment for the Redevelopment Agency. The residential project would generate \$3,300,000 more than office development in land sales proceeds for the City.

***Environmental***

Developing this type of “infill” high-density residential project in the urban core reduces suburban sprawl by reducing development pressures on communities at the Bay Area’s periphery and preserves open space. Moreover, the project’s location next to mass transit will reduce the reliance on automobiles and decrease pollution from cars. The DDA also requires Shorenstein to work with the Agency’s staff to develop appropriate and economically feasible sustainable building goals and strategies for the Project using the Agency’s Sustainable Building Guide and Project Management Tool; and to the extent economically feasible, incorporate into the final construction plans for the Project including green building techniques such as energy-conserving design and appliances, water-conserving fixtures and landscape, recycled-content building materials and low waste construction techniques.

***Social Equity***

The project will generate approximately \$293,000 annually for the Low and Moderate Income Housing Fund beginning in FY 2011-12, which will fund approximately three new affordable housing units per year or approximately forty units by the end of Central District life in 2022.

**DISABILITY AND SENIOR CITIZEN ACCESS**

All housing development projects are required to construct and set aside units to be occupied by persons with disabilities as required by Federal ADA Accessibility Guidelines, the Fair Housing Act and the State of California’s Title 24 accessibility regulations. This means that at least five percent of the newly constructed units will be available to people with disabilities. Also the use of “green building” materials may reduce any incidence of environmental illness disabilities.

**RECOMMENDATION(S) AND RATIONALE**

It is recommended that the Agency and City Council authorize the Agency and City to enter into an Eleventh Amendment to the Disposition and Development Agreement with Shorenstein Realty Investors Three, L.P., allowing for a residential land use option on Block T-12, establishing eight million one hundred thousand dollars (\$8,100,000) as the residential sales price for the entire Block T-12, reducing the time limit to develop Block T-12 by three years, to a one year option to purchase, and extending the time limit to develop Blocks T-5/6 by four (4) years to December 31, 2013. The proposed T-12 residential project will generate land sales proceeds to help the City balance its budget. The project will also generate tax increment faster than if the site was held for office use, and meets many objectives of the *Central District Five-Year Implementation Plan for 2005-2009*:

1. The project will increase the stock of for-sale housing in the Central District, and reestablish residential areas for all economic levels within the Central District;
2. The project will create a stable 24-hour residential community which will enhance the viability of retail businesses in the area;

Deborah Edgerly  
CED Committee: T-12 Eleventh Amendment

3. The project will redevelop a key underutilized site in the Central District;
4. The Project will improve environmental design within the Central District; and
5. The Project, once developed, will enhance residential and commercial property values in the surrounding areas, and will encourage efforts to alleviate economic and physical blight conditions in the area by enhancing the development potential and overall economic viability of neighboring properties.

**ACTIONS REQUESTED OF THE AGENCY/CITY**

Approve the resolutions authorizing the Agency and City to enter into an Eleventh Amendment to the Disposition and Development Agreement with Shorenstein Realty Investors Three, L.P., allowing for a residential land use option on Block T-12, establishing eight million one hundred thousand dollars (\$8,100,000) as the residential sales price for Block T-12, reducing the time limit to develop Block T-12 by three years, to a one year option to purchase, and extending the time limit to develop Blocks T-5/6 by four (4) years to December 31, 2013.

Respectfully submitted



Dan Vanderprieem, Director of Redevelopment,  
Economic Development and Housing

Prepared by:  
Jeffrey Chew  
Redevelopment Manager

APPROVED AND FORWARDED  
TO THE CITY COUNCIL /  
REDEVELOPMENT AGENCY



OFFICE OF THE CITY ADMINISTRATOR/  
AGENCY ADMINISTRATOR

**ATTACHMENT A  
BUSINESS TERMS SHEET**

**T-12 Site City Center Shorenstein Realty Investors Three, L.P.**

**Scope:**

Shorenstein Realty Investors Three, L.P. (the “Developer”), seeks the right to purchase the T-12 parcel of City Center (the “Property”) and design and construct the following improvements in separate phases:

*Approximately 125-150 residential condominium units on approximately the western half of the Property (the “Western Property”);*

*Depending on market conditions, either an additional approximately 125-150 residential condominium units on approximately the eastern half of the Property (the “Eastern Property”); or approximately 250-300 residential condominium units in a high-rise configuration on the Eastern Property.*

*One on-site parking space for each residential unit plus rights to license parking spaces in Garage West as follows: up to 40 for Phase 1; and up to 40 for the smaller Phase 2; or up to 75 for the larger residential Phase 2.*

Shorenstein will have the right to subdivide the Property into the proper configuration for the two phases. Shorenstein also has the right to determine the order in which the Eastern and Western Properties are developed.

Working with the Agency, the Developer will joint venture with a person or entity with sufficient experience and good reputation in the development of market-rate residential condominium projects with respect to the development of each of Phase 1 and any residential in Phase 2. A fully executed joint venture agreement that includes the development entity must be executed and the residential development team must be approved by the Agency staff before the property is transferred to the Developer.

Ownership of the Property will not be transferred to Developer on execution of the amendment to the current Disposition and Development Agreement (the “DDA”). However, under the DDA amendment Developer shall be granted:

- *an option for a term of one (1) year from the date of execution of the DDA amendment (the “Phase 1 Option”), to purchase approximately half of the Property (either the Western or Eastern Property) from the Agency at the current market value, and start construction on Phase 1 within eighteen (18) months of the purchase and*
- *an option for a term of one (1) year from the date of execution of the DDA amendment (the “Phase 2 Option”), to purchase the remaining half of the Property*

from the Agency at the current market value, and start construction on Phase 2 within three (3) years of the purchase.

The Phase 1 Option and Phase 2 Option are collectively referred to herein as the Options and individually as an Option. If the Developer does not begin construction on either phase within the required time frame the Agency will have the option to purchase back the relevant property for the original sale price.

The DDA Amendment will also continue to give the Developer an option on the T-5/6 parcel provided that the time period in which the Developer will have to purchase the site and begin construction on the T-5/6 parcel will be extended to December 31, 2013. During the extension period, 2010-2013, the purchase price would be adjusted to the current market rate at the time of sale. The Developer will pay the Agency an annual option fee of \$25,000 until the final site is purchased. Failure by Developer to purchase T-5/6 by December 31, 2013 shall result in immediate loss of such rights.

#### **T-12 Price:**

Based on appraisal by the Agency, the current market value is \$135 sq. ft. (for the entire Property: Eight Million One Hundred Thousand Dollars (\$8,100,000) based on raw land costs for 60,000 sq. ft. parcel). The purchase prices for the Eastern and Western properties shall be calculated based on their area.

#### **Condition of Property**

The developer shall purchase the Property in an "as is" condition subject to the payment by the Agency of incremental remediation costs in accordance with the terms of the current DDA. Developer has the right to perform "due diligence" investigations, including but not limited to hazardous materials investigations, on the Agency-owned properties prior to closing.

#### **Design and Construction**

Developer commits to working with the Agency and Planning Department for certain design and construction objectives. These will include, but not be limited to, (1) entrances to as many of the individual first floor housing units as reasonable given the overall plan shall be at ground level and accessible to the pedestrian sidewalks, (2) the bulk of the buildings shall be mitigated with off-sets, changes in plane, terracing, random balconies, bay windows, or similar techniques, (3) all materials used in the construction shall be of good quality and durability, (4) all windows in the buildings shall be recessed with discrete openings or projecting bays (as approved), be subdivided by mullions, and some shall be operable (5) the base of the building shall not be set back from the property line unless stoop entrances are employed as entrances into the ground floor units except as approved by Planning (e.g. open spaces). In addition, the Developer will explore the feasibility of installing retail and other high intensity pedestrian uses on the ground level.

Deborah Edgerly  
CED Committee: T-12 Eleventh Amendment

Developer shall prepare schematic drawings as required for the preliminary PUD approval, which shall be attached to the DDA, and approved by the Agency when it approves the DDA. The Agency will have rights of approval of PUD Plans for each separate phase of the project in accordance with the design approval provisions of the existing DDA.

To the extent feasible, the parties agree and understand environmental sustainability measures will be incorporated into the project provided that such features are equivalent or lower in cost than comparable non-sustainable alternatives, when measured over their respective life-cycles, and will not delay construction.

### **General Conditions**

This term sheet includes all of the major basic business terms for the negotiation of a proposed transaction between the Agency and the Developer, in the form of an amendment of the existing DDA. However, this term sheet is not exclusive and does not bind the City, the Agency or the Developer nor commit the City, the Agency or the Developer to a course of action with respect to the proposed project. The parties acknowledge that neither the Agency, nor the City nor the Developer can be bound unless and until all CEQA or other necessary environmental requirements have been satisfied and the Agency and City vote to approve the amendment to the DDA.

The foregoing provisions shall be alternative terms for the Developer's purchase and development of the Property. The existing terms relating to purchase and development of the Property as an office project shall remain in place as an alternative option which may be pursued by the Developer, in its sole discretion and the existing terms relating to the purchase and development of T-5/6 shall remain in place; provided however that: (1) with respect to T-5/6 the term would be extended to December 31, 2013; and (2) with respect to the Property (Parcel T-12), the purchase for office use must occur by one year from the date of execution of the DDA amendment rather than by December 31, 2009. The purchase price for an office development will remain approximately \$4,800,000 (per existing DDA).

The DDA amendment will include a detailed Scope of Development describing in detail the project requirements and a Schedule of Performance with detailed schedule requirements as described above and generally consistent the existing DDA, where applicable.

The terms of the DDA are binding on any successors in interest.

**ATTACHMENT B  
COMPARISON OF CITY CENTER DDA TERMS  
(EXISTING DDA vs. PROPOSED ELEVENTH AMENDMENT)**

**DEVELOPMENT SITE: T-5/6**

<b>Term</b>	<b>Existing DDA (Original through Tenth Amendment)</b>	<b>Proposed Eleventh Amendment</b>
Deadline to <b>develop</b> site	December 31, 2009	December 31, 2013
Purchase Price	Approximately \$3,947,000 in 2009 (per existing DDA, the price is \$40/sqft x 70,126 sqft x 5%/year for 7 years, from 2002-2009)	Through December 31, 2009: Approximately \$3,947,000 in 2009 (per existing DDA, the price is \$40/sqft x 70,126 sqft x 5%/year for 7 years, from 2002-2009)  2010-2013: current market rate at the time of sale

**DEVELOPMENT SITE: T-12**

<b>Term</b>	<b>Existing DDA (Original through Tenth Amendment)</b>	<b>Proposed Eleventh Amendment</b>
Deadline to <b>acquire</b> site	December 31, 2009	Summer 2006
Deadline to <b>develop</b> Phase 1	December 31, 2009	Winter 2008
Deadline to <b>develop</b> Phase 2	December 31, 2009	Summer 2009
Penalty for not meeting development schedule	Lose development rights in December 31, 2009	Lose development rights in Summer 2006
Project scope	Office land use option, ranging from 450,000-500,000 sqft	In addition to retaining office use option, Developer granted residential land use option, ranging from approximately 250-450 units
Deadline to develop office use option	December 31, 2009	Summer 2006
Sales price	Office sales price: approximately \$4,800,000 (per existing DDA, the price is \$60/sqft x 60,000 sqft x 5%/year for 9 years, from 2000-2009)	Residential sales price: \$8,100,000  Office sales price remains approximately \$4,800,000

**ATTACHMENT C  
TAX INCREMENT ANALYSIS**

<b>Fiscal Year</b>	<b>Project Assessed Value <sup>(1)</sup></b>	<b>Applicable Tax Rate</b>	<b>Tax Increment</b>	<b>Pass Through (20%)</b>	<b>ERAF (5.78%)</b>	<b>Housing Set-Aside (25%)</b>	<b>Net Tax Increment</b>
2007-08	8,100,000	1.1775%	95,378	(19,076)	(5,513)	(23,844)	46,945
2008-09	19,987,500	1.1775%	235,353	(47,071)	(13,603)	(58,838)	115,841
2009-10	51,862,500	1.1775%	610,681	(122,136)	(35,297)	(152,670)	300,577
2010-11	65,414,583	1.1775%	770,257	(154,051)	(44,521)	(192,564)	379,120
2011-12	99,681,625	1.1775%	1,173,751	(234,750)	(67,843)	(293,438)	577,720
2012-13	101,675,258	1.1775%	1,197,226	(239,445)	(69,200)	(299,307)	589,275
2013-14	103,708,763	1.1775%	1,221,171	(244,234)	(70,584)	(305,293)	601,060
2014-15	105,782,938	1.1775%	1,245,594	(249,119)	(71,995)	(311,399)	613,081
2015-16	107,898,597	1.1775%	1,270,506	(254,101)	(73,435)	(317,626)	625,343
2016-17	110,056,569	1.1775%	1,295,916	(259,183)	(74,904)	(323,979)	637,850
2017-18	112,257,700	1.1775%	1,321,834	(264,367)	(76,402)	(330,459)	650,607
2018-19	114,502,854	1.1775%	1,348,271	(269,654)	(77,930)	(337,068)	663,619
2019-20	116,792,911	1.1775%	1,375,237	(275,047)	(79,489)	(343,809)	676,891
2020-21	119,128,769	1.1775%	1,402,741	(280,548)	(81,078)	(350,685)	690,429
2021-22	121,511,345	1.1775%	1,430,796	(286,159)	(82,700)	(357,699)	704,238
<b>City's Total Portion of Pass Through (34.8%)</b>				<b>\$1,113,232</b>			
<b>Total for the Agency's Low- &amp; Moderate-Income Housing Set-A-Side</b>						<b>\$3,998,678</b>	
<b>Agency's Total Tax Increment FY 2007-2022</b>							<b>\$7,872,597</b>

<sup>(1)</sup> Project Assessed Value assumes the most conservative development scenario, whereby 125 units are constructed during Phase 1, and 125 units are constructed during Phase 2. Average unit size is estimated at 850 square feet per unit, and average residential sales price is estimated at \$382,500 per unit for Phase 1, and \$399,500 per unit for Phase 2. During construction, Project Assessed Value of each Phase is calculated as one-third of Assessed Value at Project completion. A two (2) percent growth factor is used, once each Phase is complete.



**ATTACHMENT D  
PROJECT SUMMARY**

**Project Name:** City Center T-12 Residential Project  
**Project Type:** Residential with parking  
**Address/Location:** 661 12<sup>th</sup> Street, Oakland, CA 94607, in the City Center Activity Area of the Central District Redevelopment Project Area

**Developer:** Shorenstein Realty Investors Three, L.P.  
**Architect:** Heller Manus Architects  
**Type of Construction:** Western Property and Eastern Property, Option 1: New construction-Type II light metal; Eastern Parcel, Option 2: Type I steel or concrete  
Western Property: 8-story building with 2 levels subsurface parking on Western Parcel;  
Eastern Property, Option 1: 8-story building with 2 levels subsurface parking on Eastern Parcel;  
Eastern Property, Option 2: Up to 25-story building, on an 8-story podium, with 3 levels parking.

**Number of Units\*:** Western Property: 144 units  
Eastern Property, Option 1: 140 units  
Eastern Property, Option 2: 306 units

**Parking Garage\*:** 284-430 spaces with the possible inclusion of up to 200 spaces made available through a lease agreement in the City Center West Garage

**Project Tenure:** Market rate for-sale  
**Total Development Costs\*:** \$85,428,750  
**Development Cost per Unit\*:** \$341,715  
**Sales Price per Unit\*:** Phase 1: \$382,500/unit; Phase 2: \$399,500/unit

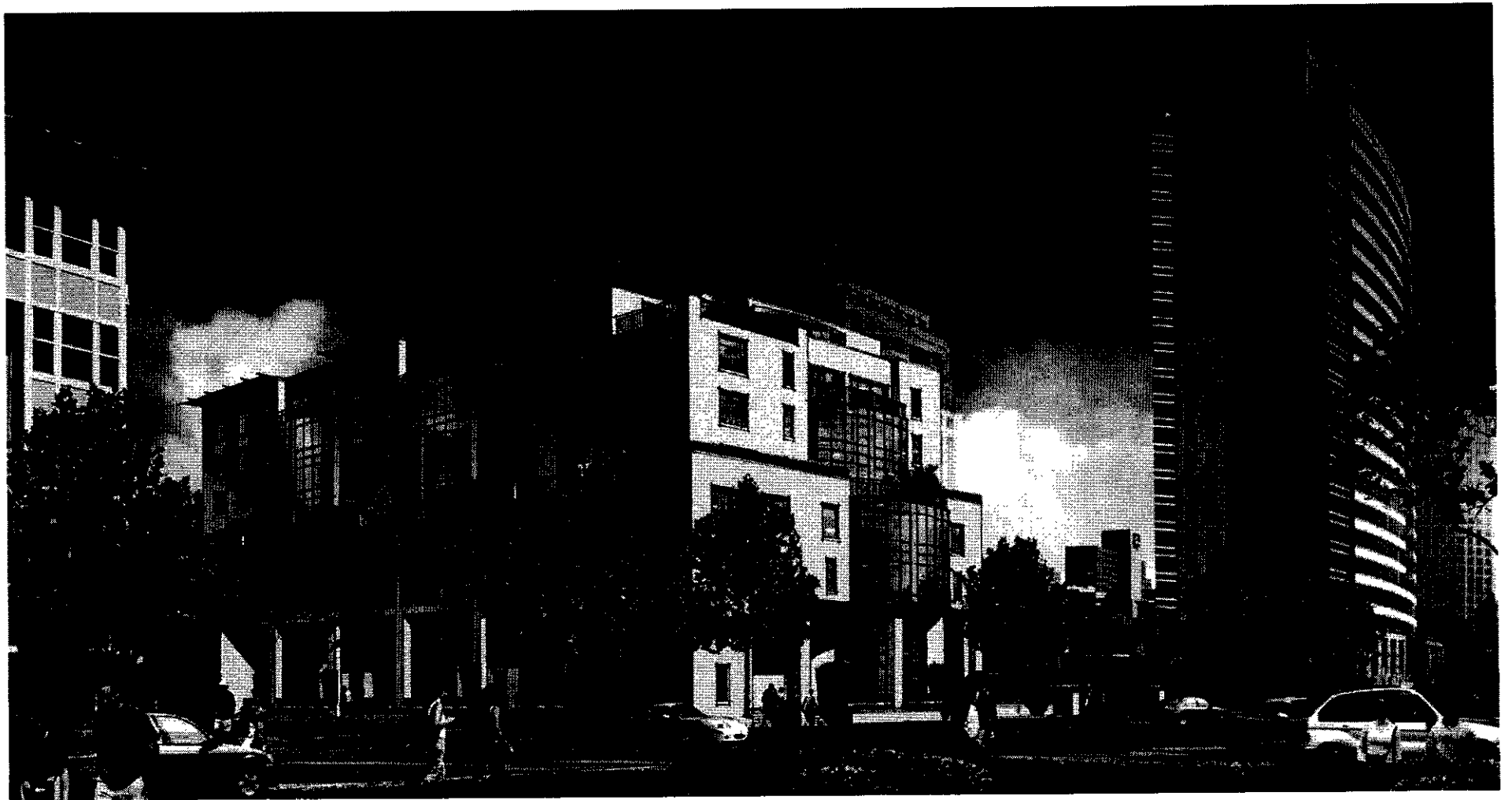
\* Unit size and count, parking count, development costs, and unit sales price are estimates only. Cost estimates are based on the developer's most conservative development scenario, a 250 unit project, having an average unit size of 850 square feet. Shorenstein will work with a residential developer to establish project specifications satisfactory to the Agency and reflecting market conditions.

**The Shorenstein Company:**

The Shorenstein Company is headquartered in San Francisco and is one of the oldest and largest privately-held real estate investment and development firms in the US. The company currently operates more than 22 million square feet of prime office space nationwide in major markets such as San Francisco, Chicago and New York. Since 1992, the company has invested through a series of real estate investment funds, the first six of which attracted \$1.5 billion in total equity. The funds have acquired and developed about 16 million sf of Class A office properties throughout the US. Shorenstein Realty Investors Seven, the company's largest fund to date, closed to investors in February 2004 after raising \$775 million in equity. For more information on Shorenstein Company, visit the company's web site at <http://www.shorenstein.com>.

**ATTACHMENT E  
PROJECT SCHEMATIC DESIGN**

Sample schematic designs for the proposed development phases follow.



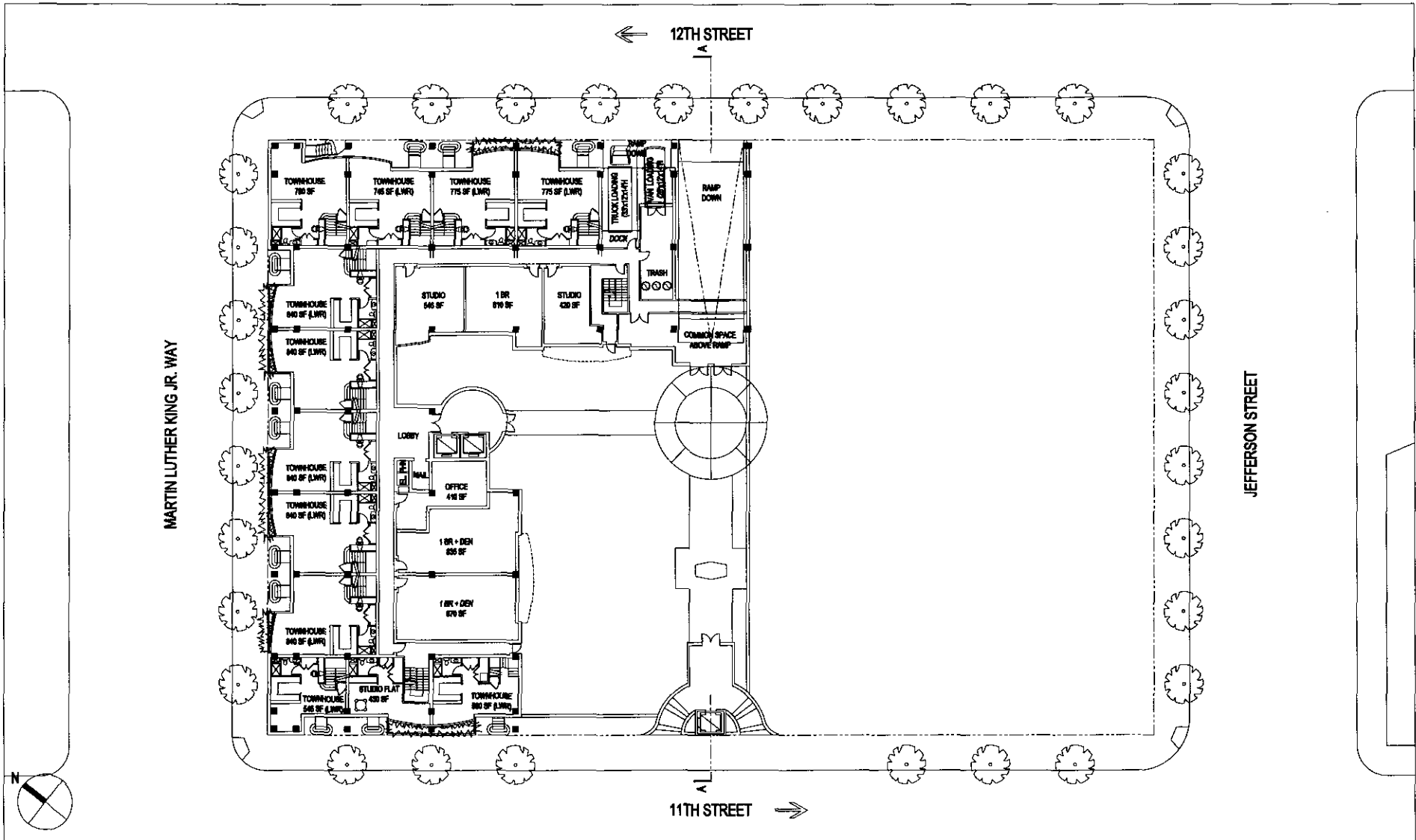
APRIL 14, 2005

SHORENSTEIN REALTY SERVICES

SITE T-12  
OAKLAND, CA

VIEW OF OPTION 1 PHASE 1

HELLER-MANUS **H·M**  
ARCHITECTS  
© 2004 ALL RIGHTS RESERVED



APRIL 15, 2005  
 SCALE: 1"=30'-0"  
 0 30' 60'

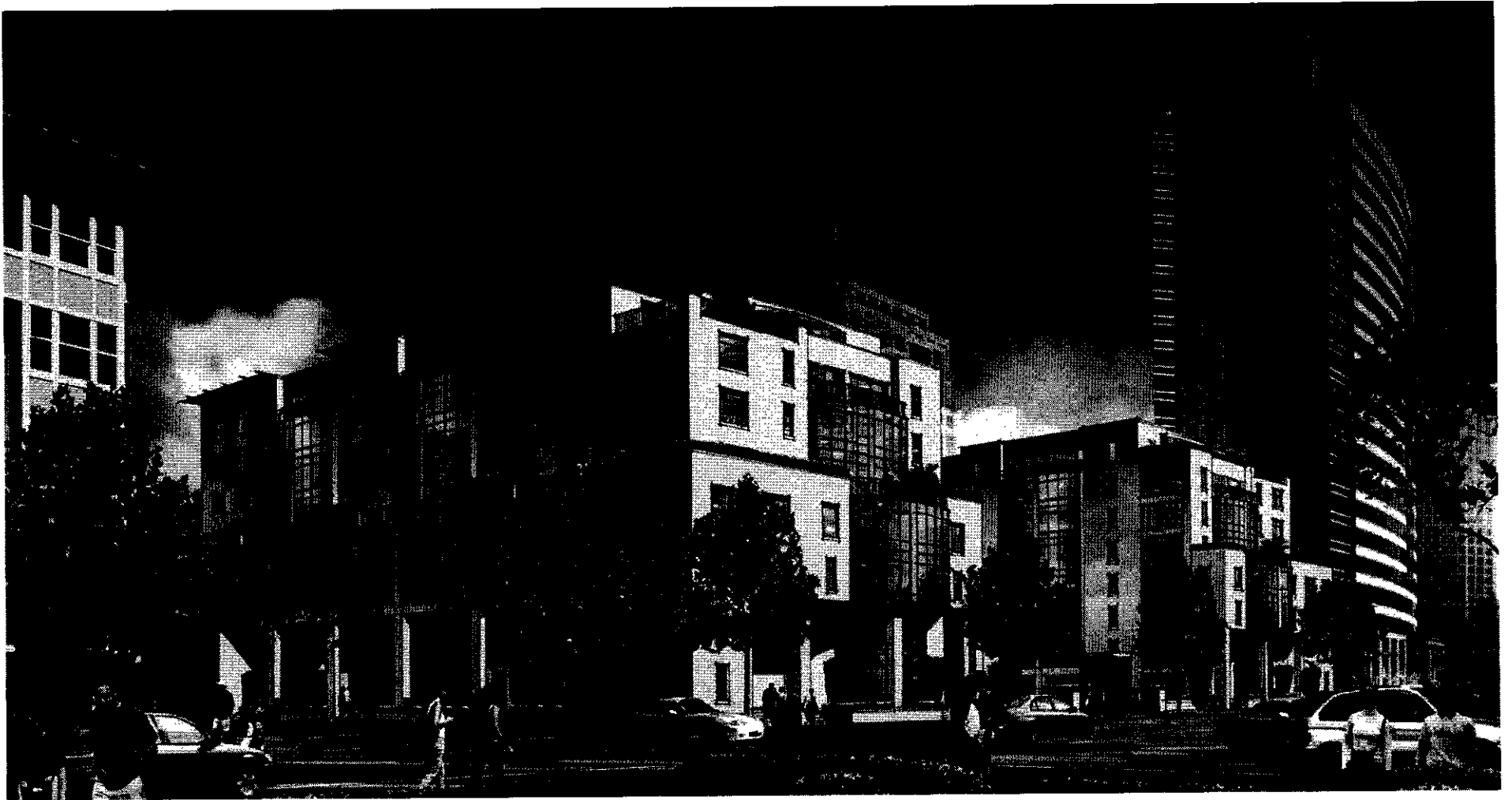
**SITE T-12**

OPTION 1- PHASE 1  
 1ST LEVEL PLAN

SHORENSTEIN REALTY SERVICES

OAKLAND, CA

**HELLER • MANUS**  
 ARCHITECTS  
 © 2005 ALL RIGHTS RESERVED



APRIL 14, 2005

SHORENSTEIN REALTY SERVICES

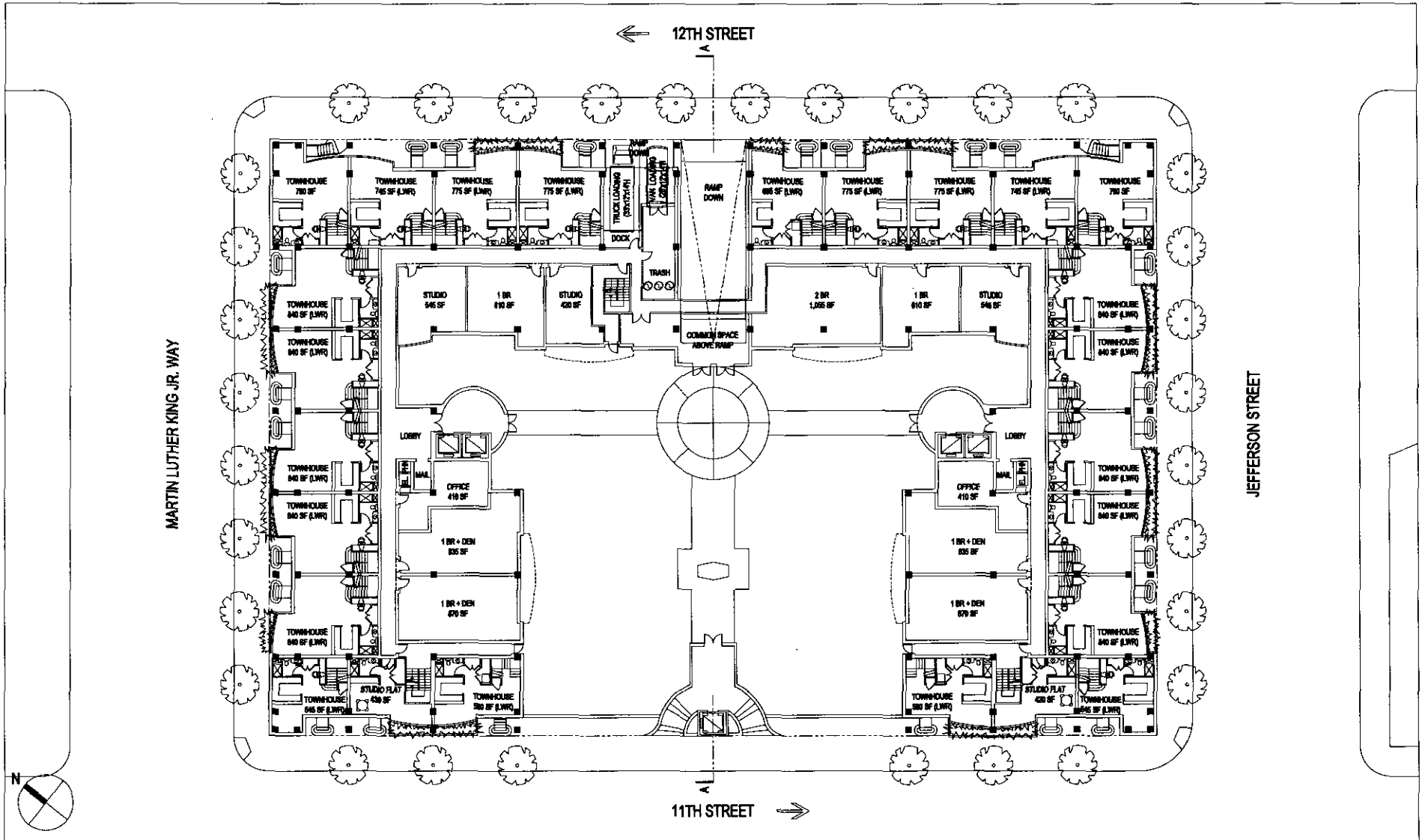
SITE T-12

OAKLAND, CA

VIEW OF OPTION 1 PHASE 2

HELLER-MANUS **H·M**  
ARCHITECTS  
© 2005 ALL RIGHTS RESERVED

UNIT MIX AND LAYOUT ARE CONCEPTUAL AND SUBJECT TO CHANGE



APRIL 15, 2005  
SCALE: 1"=30'-0"

0 30' 60'

SHORENSTEIN REALTY SERVICES

SITE T-12

OAKLAND, CA

OPTION 1- PHASE 2  
1ST LEVEL PLAN

HELLER-MANUS  
ARCHITECTS  
© 2005 ALL RIGHTS RESERVED



APRIL 21, 2005

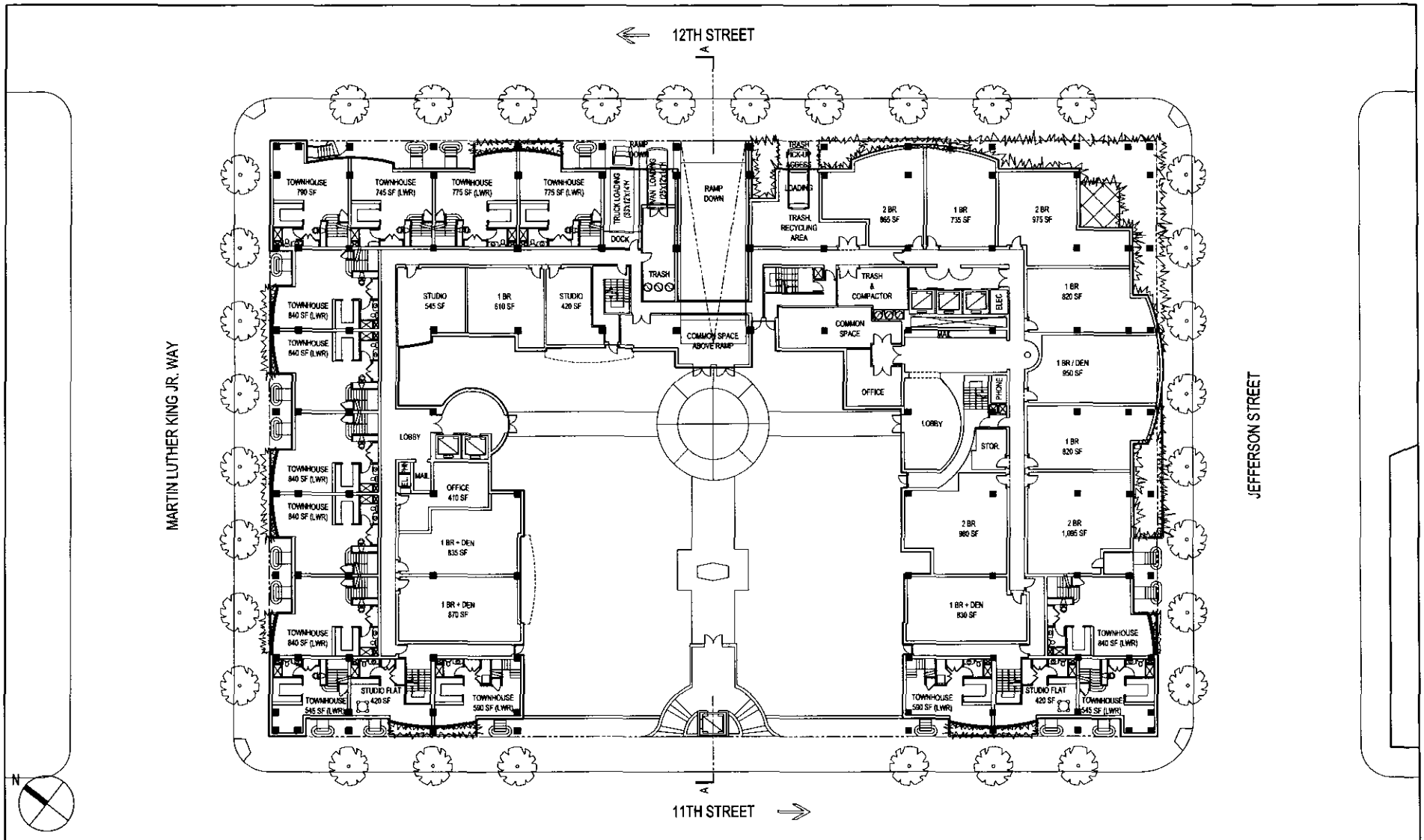
SHORENSTEIN REALTY SERVICES

**SITE T-12**  
OAKLAND, CA

VIEW OF OPTION 2

HELLER·MANUS **H·M**  
ARCHITECTS  
© 2004 ALL RIGHTS RESERVED

UNIT MIX AND LAYOUT ARE CONCEPTUAL AND SUBJECT TO CHANGE



APRIL 15, 2005  
SCALE: 1"=30'-0"



SITE T-12

OPTION 2 - PHASE 2  
1ST LEVEL PLAN

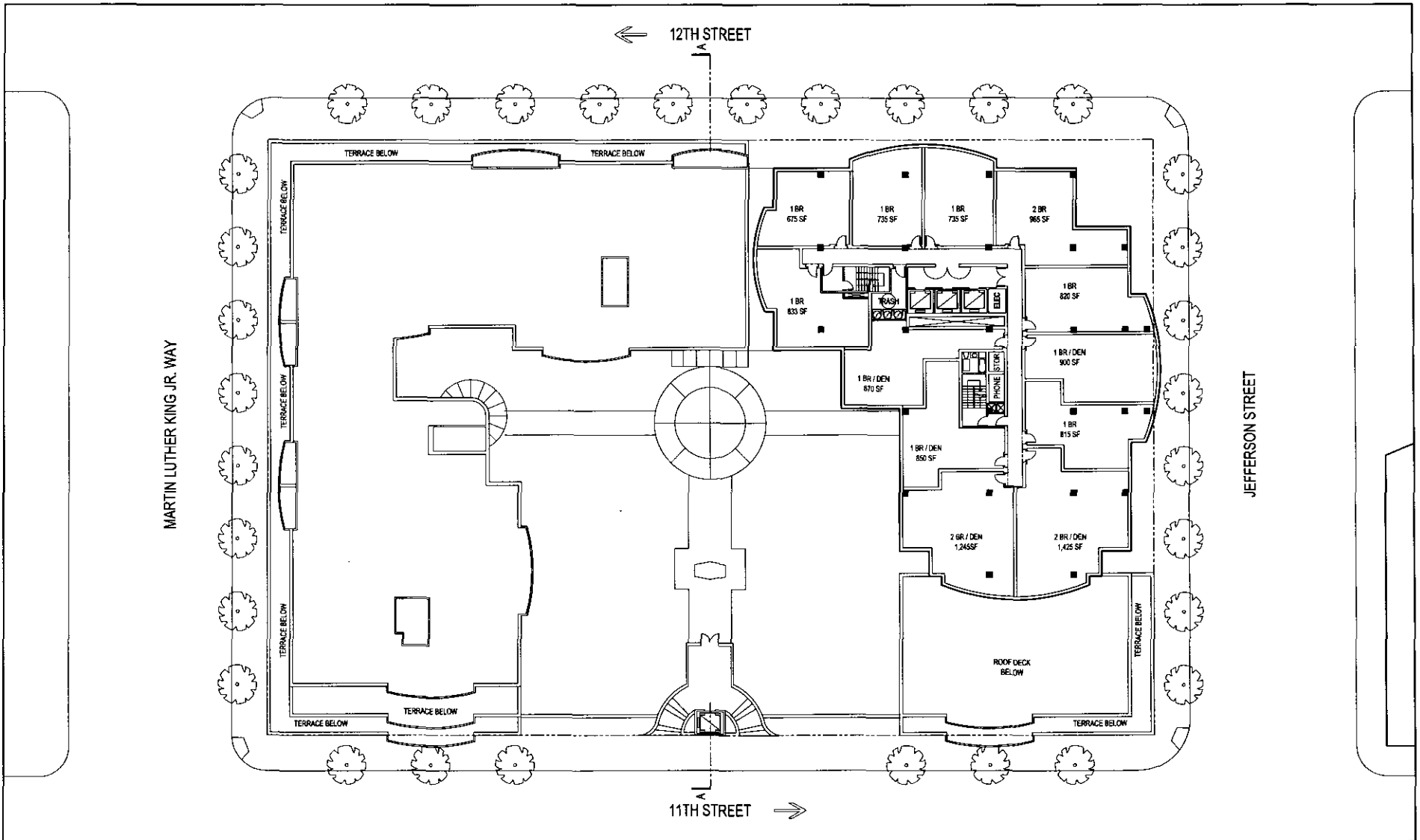
SHORENSTEIN REALTY SERVICES

OAKLAND, CA

HELLER • MANUS  
ARCHITECTS  
© 2005 ALL RIGHTS RESERVED



UNIT MIX AND LAYOUT ARE CONCEPTUAL AND SUBJECT TO CHANGE



APRIL 15, 2005  
SCALE: 1"=30'-0"  
0 30' 60'

SITE T-12

OPTION 2 - PHASE 2  
LEVELS 10-22 PLAN

SHORENSTEIN REALTY SERVICES

OAKLAND, CA

HELLER • MANUS  
ARCHITECTS  
© 2005 ALL RIGHTS RESERVED

2008 JUN 15 PM 9:12

Agency Counsel

## REDEVELOPMENT AGENCY OF THE CITY OF OAKLAND

RESOLUTION No. \_\_\_\_\_ C.M.S.

---

**A RESOLUTION AUTHORIZING THE AGENCY TO ENTER INTO AN ELEVENTH AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT WITH SHORENSTEIN REALTY INVESTORS THREE, L.P., REGARDING THE CITY CENTER PROJECT: (1) ALLOWING FOR A RESIDENTIAL LAND USE OPTION ON BLOCK T-12; (2) ESTABLISHING EIGHT MILLION ONE HUNDRED THOUSAND DOLLARS (\$8,100,000) AS THE RESIDENTIAL SALES PRICE FOR BLOCK T-12; (3) REDUCING THE TIME LIMIT TO DEVELOP BLOCK T-12 BY THREE YEARS, TO A ONE YEAR OPTION TO PURCHASE; AND (4) EXTENDING THE TIME LIMIT TO DEVELOP BLOCKS T-5/6 BY FOUR YEARS TO DECEMBER 31, 2013**

**WHEREAS**, the City of Oakland ("City"), the Redevelopment Agency of the City of Oakland ("Agency") and Shorenstein Realty Investors Three ("SRI III") are parties to a Disposition and Development Agreement ("DDA") whereby SRI III is the master developer of the twelve block area in the Central District Urban Renewal Area commonly referred to as the City Center Project; and

**WHEREAS**, the DDA, which sets forth the terms and conditions whereby SRI III may purchase and develop the various parcels within the City Center Project, has been amended ten times, most recently in 2002; and

**WHEREAS**, the parties to the DDA desire to further amend certain terms of the DDA including, among other things to, (1) allow for a residential land use option on block T-12; (2) establish eight million one hundred thousand dollars (\$8,100,000) as the residential sales price for block T-12; (3) reduce the time limit to develop block T-12 by three years, to a one year option to purchase; and (4) extend the time limit to

develop blocks T-5/6 by four years to December 31, 2013, all as more fully described in the agenda report for this matter; and

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

**WHEREAS**, an Environmental Impact Report ("EIR") (certified by the Oakland Planning Commission on April 26, 2000), has been prepared for the City Center project as proposed by Shorenstein Realty Partners Three, L.P., and has been independently reviewed and considered by the Agency in evaluating the City Center project in compliance with CEQA, the Guidelines for Implementation of the California Environmental Quality Act (14 CCR Sections 15000, et seq., the "State EIR Guidelines"), and the City's Environmental Review Regulations; and

**WHEREAS**, the Planning Commission and the Agency determined that the EIR examined a reasonable range of alternatives, and that each alternative was rejected as infeasible for various reasons; and

**WHEREAS**, the Planning Commission and the Agency found and determined that all adverse environmental effects of the City Center project, with the exception of (1) increase in traffic delays in the downtown, (2) cumulative contribution to regional air pollutant problems, (3) cumulative noise impacts, and (4) exceedances of the 36-mph "wind hazard" speed could occur, would be less than significant or reduced to less-than-significant levels after implementation of the mitigation measures identified in the EIR and the mitigation monitoring program; and

**WHEREAS**, the Planning Commission and the Agency found and determined that the benefits of the City Center project outweigh any unavoidable adverse impact of the Project; and

**WHEREAS**, the Planning Commission and Agency both approved the Project and a Notice of Determination was subsequently filed; and

**WHEREAS**, Addendum #1 to the EIR, was prepared for increases in residential density and the elimination of office use for Block T-10 in October 2003, which was independently reviewed and considered by the Agency, and which concluded that none of the changes to the T-10 Project or circumstances under which it will be undertaken require preparation of a subsequent or supplemental EIR, as specified in CEQA and the CEQA Guidelines, including without limitation, Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 and 15163; and

**WHEREAS**, both the Planning Commission and Agency both approved the Block T-10 revisions to the Project and a Notice of Determination was subsequently filed; and

**WHEREAS**, a June 2005 Addendum #2 to the EIR was prepared to reflect a residential land use option on Block T-12 which has been independently reviewed and considered by the Agency for applicability to the proposed Project, and which has concluded that none of the changes to the T-12 Project or circumstances under which it will be undertaken require preparation of a subsequent or supplemental EIR, as specified in CEQA and the CEQA Guidelines, including without limitation, Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 and 15163; and

**WHEREAS**, notice of the public hearing regarding the Eleventh Amendment to the DDA was given by publication at least once a week for not less than two weeks prior to the public hearing in a newspaper of general circulation in Alameda County; and

**WHEREAS**, as required by Section 33433 of the California Community Redevelopment Law, the Agency has made available to the public for inspection, no later than the first date of publication of the notice for the hearing, a report that contained a copy of the terms of the draft Eleventh Amendment to the DDA; and

**WHEREAS**, the City has approved the execution of the Eleventh Amendment to the DDA by resolution after a public hearing; now, therefore, be it

**RESOLVED:** That the Redevelopment Agency hereby finds and determines: (1) that it has been presented and has independently reviewed and considered the information contained in the previously certified EIR and Addendum #2, and the EIR and Addendum #2 comply with CEQA and the CEQA Guidelines' requirements for analysis of the Project's environmental effects and mitigation measures; (2) that the mitigation measures adopted by the Agency in considering the EIR and approving the DDA, together with a mitigation monitoring program for the Project, are hereby amended and adopted as specified in the attached Exhibit A; and (3) that none of the changes to the project, or circumstances under which it will be undertaken, or new information of substantial importance require preparation of a subsequent or supplemental EIR; and be it further

**RESOLVED:** That the Redevelopment Agency hereby authorizes the Agency Administrator or her designee to negotiate and execute an Eleventh Amendment to the DDA with Shorenstein as set forth hereinabove and to take any other action with respect thereto consistent with this Resolution and its basic purpose; and be it further

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

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

Plaza, 3rd Floor, Oakland; and (c) the Office of the City Clerk, 1 Frank H. Ogawa Plaza, 1st Floor, Oakland.

IN AGENCY, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2005

**PASSED BY THE FOLLOWING VOTE:**

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
                 LATONDA SIMMONS  
Secretary of the Redevelopment Agency  
                 of the City of Oakland

**EXHIBIT A**

**MITIGATION MONITORING PROGRAM – BLOCK T-12**

**MITIGATION MEASURES AND MONITORING PROGRAM  
CASE FILE NO. PUD 05185**

CITY CENTER PROJECT – EIR ADDENDUM #2

(Changes from August 18, 2004 Revised and Amended)

***APPLICABLE 2000 FEIR MITIGATION MEASURES – TRAFFIC, CIRCULATION AND PARKING (AMENDED AND RESTATED)***

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

**Mitigation Measure B.1a:** At 12th and Brush Streets, the Block T12 project sponsor (if Option 2 is selected), along with the developer of Block T5/6 (Shorenstein or its successor) shall work with Caltrans and coordinate with the City to consider various improvement options, which could include signal timing improvements or additional lanes on the ramp. The developer shall fund its fair share of any required improvements. Because implementation of this measure requires consultation with Caltrans, the City cannot ensure that the mitigation measure could be implemented and the anticipated impact is therefore considered to be significant and unavoidable.

**Responsible Implementing Entity:** Oakland Public Works Agency, Traffic Engineering Division; Caltrans

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

**Monitoring Responsibility:** CEDA, Planning Division; Public Works Agency, Traffic Engineering Division

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

**Mitigation Measure B.4:** The requirement to submit a parking study for future phases of the City Center Project is not included in this Addendum, for the following reasons. First, the Modified Block T12 Project, along with the previously approved Modified Project on Block T10, would reduce the overall City Center Project parking shortfall by nearly 80 percent, compared to that reported in the 2000 FEIR. Furthermore, the parking shortfall would be nearly completely eliminated on Block T12 itself. If Block T12 is builtout under Option 2, a parking shortfall of up to 430 spaces could occur; however, parking spaces that may be available through a lease agreement in the City Center West Garage could further reduce the parking shortfall. Finally, a 2002 California Court of Appeal decision (regarding a challenge to San Francisco's treatment of parking as a social, not physical, effect), decided subsequent to certification of the 2000 FEIR, held that parking is not part of the permanent physical environment, and that parking conditions change over time as people change their travel patterns, unmet parking demand created by the project need not be considered a significant environmental effect under CEQA unless it would cause significant secondary physical effects. At the time that the developer of Block T5/6 applies for a final development plan, the City could nevertheless require a parking study as part of the approval process, if deemed necessary.

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

**Mitigation Measure B.5:** For the final phase of the project construction following Block T12 (Block T5/6), the developer of Block T5/6 (Shorenstein or its successor), if the Block T5/6 building includes office space, shall conduct a study, subject to the review and approval of the City Traffic Engineering Division, to determine whether there is adequate exiting capacity at the 12th Street station. The Block T5/6 developer shall work with BART to assure that with buildout of the project (all four buildings), adequate exit fare gates are available at the 11th Street exits in the a.m. peak hour so that the maximum passenger wait does not exceed two minutes to be processed through the fare gates. This may require the addition of one or more new fare gates at the 11th Street exit to the station. Implementation of this measure would reduce the anticipated impact to less-than-significant levels.

**Responsible Implementing Entity:** Planning Division; Oakland Public Works Agency, Traffic Engineering Division; BART

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

**Monitoring Responsibility:** CEDA, Planning Division; Public Works Agency, Traffic Engineering Division

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

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

**Mitigation Measure B.6:** The project shall provide an adequate number of bicycle parking spaces, as determined by the City, in location(s) either on-site or within a three-block radius, or through payment of appropriate in-lieu fees. Implementation of this measure would reduce the anticipated impact to less-than-significant levels.

**Responsible Implementing Entity:** Planning Division; Oakland Public Works Agency, Traffic Engineering Division; BART

**Monitoring Action(s):** Planning Division and Public Works Agency, Traffic Engineering Division shall review project's proposed bicycle parking plan.

**Monitoring Responsibility:** CEDA, Planning Division; Public Works Agency, Traffic Engineering Division

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

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

**Mitigation Measure B.7:** Prior to the start of excavation or construction on all project blocks, the project sponsors would submit to the City Traffic Engineering Division for review and approval a plan for managing construction-period traffic and parking. This plan would include information on routing of construction traffic, deliveries of large items, provision of off-street parking for construction workers, use of on-street parking spaces, off-street equipment staging, and any encroachment into public streets that would affect traffic flow, public parking, or pedestrian access and safety. Implementation of this measure would reduce the anticipated impact to less-than-significant levels.

**Responsible Implementing Entity:** Planning Division; Oakland Public Works Agency, Traffic Engineering Division



**Monitoring Action(s):** Public Works Agency, Traffic Engineering Division shall review project sponsor's construction-period traffic and parking plan.

**Monitoring Responsibility:** CEDA, Planning Division; Public Works Agency, Traffic Engineering Division

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

***APPLICABLE 2000 FEIR MITIGATION MEASURES – air quality (RESTATED)***

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

**Mitigation Measure C.1:** The project sponsors (Shorenstein, or its successor, as applicable) shall require the construction contractor to implement a dust abatement program.

Elements of this program shall include the following:

- Water all active construction areas at least twice daily;
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer);
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
- Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets; and
- Designate a person or persons to oversee the implementation of a comprehensive dust control program and to increase watering, as necessary.

The above list of measures are recommended by BAAQMD as feasible control measures to reduce construction dust emissions at sites, such as the individual development blocks associated with the project, which are less than four acres in area. With implementation of these mitigation measures, the residual effect would be less than significant.

In addition, the following measures, which are identified in the EIR on the *Oakland General Plan Land Use and Transportation Element* (City of Oakland, 1997; p. III.E-26) for future development projects, are recommended to minimize construction equipment emissions during the construction period:

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

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

Implementation of these measures would reduce the anticipated impact to less-than-significant levels.

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

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

**Monitoring Responsibility:** CEDA, Building Services Division

**Monitoring Timeframe:** Throughout the construction period.

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

**Mitigation Measure C.2a:** Throughout operation of the project, the office developer (Shorenstein or its successor) shall implement Transportation Control Measures identified in the *General Plan Land Use and Transportation Element EIR*.

The following Transportation Control Measures shall be implemented to increase the likelihood that the assumed level of use of alternative travel modes (i.e., transit and carpool) that has been incorporated into the impact analysis would be exceeded in practice and, furthermore, to reduce estimated vehicle-related NO<sub>x</sub> emissions by four percent, which would reduce the impact to less than significant (i.e., to less than 80 pounds per day). (For each measure, the estimated effectiveness in reducing vehicle trips is given in parentheses.)

- Implement a carpool/vanpool program (e.g. carpool ridesharing for employees, assistance with vanpool formation, provision of vanpool vehicles, etc.) (effectiveness 1.0 to 4.0 percent of work trips);
- In coordination with AC Transit and City staff, construct transit facilities such as bus turnouts/bus bulbs, benches, and shelters along the road segments that define the development blocks (effectiveness 0.5 to 2.0 percent of all trips);
- Provide preferential parking (e.g., near building entrance) and reduced/eliminated parking fees in the City Center Garage and City Center West Garage for carpool and vanpool vehicles (effectiveness 0.5 to 1.5 percent of work trips for preferential location; 2 percent or more of work trips for reduced parking fees);
- Provide employer subsidy of transit passes (such as through the Metropolitan Transportation Commission's "Commuter Check" program);
- Provide secure, weather-protected long-term bicycle parking for future residents and employees at the proposed retail and office uses (effectiveness 0.5 to 2.0 percent of work trips);
- Provide showers and lockers for employees bicycling or walking to work at the proposed retail and office uses (effectiveness 0.5 to 2.0 percent of work trips); and

- Provide secure short-term bicycle parking for future retail customers (effectiveness 1.5 to 2.0 percent of non-work trips).

Implementation of these measures would reduce the anticipated impact to less-than-significant levels.

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

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

**Monitoring Responsibility:** CEDA, Planning Division and Building Services Division; Oakland Public Works Agency, Traffic Engineering Division

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

**Mitigation Measure C.2b:** The office developer (Shorenstein or its successor) shall implement Mitigation Measure B.5 (improvements to BART 12th Street Station exit gates) to facilitate use of BART by project workers.

Implementation of these measures would reduce the anticipated impact to less-than-significant levels.

**Responsible Implementing Entity:** Planning Division; Oakland Public Works Agency, Traffic Engineering Division; BART

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

**Monitoring Responsibility:** CEDA, Planning Division; Public Works Agency, Traffic Engineering Division

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

### ***APPLICABLE 2000 FEIR MITIGATION MEASURES – noise (AMENDED AND RESTATED)***

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

**Mitigation Measure D.1a:** The project sponsor shall require construction contractors to limit standard construction activities as required by the City Building Department. Such activities are generally limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, with pile driving and/or other extreme noise generating activities greater than 90 dBA limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday, with no extreme noise generating activity permitted between 12:30 p.m. and 1:30 p.m. No construction activities shall be allowed on weekends until after the building is enclosed, without prior authorization of the Building Services Division, and no extreme noise generating activities shall be allowed on weekends and holidays.

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

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

**Monitoring Responsibility:** CEDA, Building Services Division

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

**Mitigation Measure D.1b:** To reduce daytime noise impacts due to construction, the project sponsor shall require construction contractors to implement the following measures:

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

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

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

**Monitoring Responsibility:** CEDA, Building Services Division

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

**Mitigation Measure D.1c:** To further mitigate potential other extreme noise generating construction impacts, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted for review and approval by the City to ensure that maximum feasible noise attenuation will be achieved. These attenuation measures shall include as many of the following control strategies as feasible:

- Erect temporary plywood noise barriers around the construction site, particularly along the eastern boundary along 14th Street to shield the adjacent multi-family residential buildings;

- Implement “quiet” pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;
- Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings; and
- Monitor the effectiveness of noise attenuation measures by taking noise measurements.

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

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

**Monitoring Responsibility:** CEDA, Building Services Division

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

**Mitigation Measure D.1d:** Prior to the issuance of each building permit, along with the submission of construction documents, the project sponsor shall submit to the City Building Department a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:

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

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

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

**Monitoring Responsibility:** CEDA, Building Services Division

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

Implementation of Mitigation Measure D.1a through D.1d would reduce construction noise impacts to a less-than-significant level.

***APPLICABLE 2000 FEIR MITIGATION MEASURES – shadow and wind (RESTATED)***

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

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

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

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

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

This anticipated impact may remain significant even after implementation of these measures. Consistent with the 2000 FEIR, a condition of approval shall be incorporated into the Modified Project requiring further wind-tunnel testing for any project that includes development in excess of 100 feet in height, in order to reduce wind impacts to the maximum extent feasible, although it is possible that the impact would not be reduced to a less-than-significant level.

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

**Monitoring Action(s):** For Block T12, if Option 2 (i.e., a building in excess of 100 feet tall) is selected, Planning Division shall require wind-tunnel testing. For subsequent phases of the City Center Project, Planning Division shall similarly require wind-tunnel testing for buildings taller than 100 feet, unless a qualified wind expert determines no testing is required.

**Monitoring Responsibility:** CEDA, Planning Division

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

***MITIGATION FOR ISSUES ANALYZED IN THE INITIAL STUDY***

**Geology and Soils (Restated)**

- Construction operations, especially excavation and grading operations, shall be confined as much as possible to the dry season, in order to avoid erosion of disturbed soils; and
- Final project landscaping plans shall be submitted to the Planning Director for review and approval.

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

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

**Monitoring Responsibility:** CEDA, Building Services Division

**Monitoring Timeframe:** Throughout construction period.

Implementation of the above mitigation measures would reduce impacts to less-than-significant levels.

### **Hydrology and Water Quality (Amended and Restated)**

- The applicant shall be required to pay fees to compensate the City for the cost of any system upgrades required to accommodate increased runoff from the proposed project; and
- The applicant shall be required to grade unpaved areas to control surface drainage and redirect surface water away from areas of activity during excavation and construction; and
- The project applicant shall be required to comply with the Alameda Countywide Clean Water Program NPDES permit, and would implement appropriate source control and site design measures, and design and implement stormwater treatment measures to reduce stormwater pollution to the maximum extent practicable.

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

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

**Monitoring Responsibility:** CEDA, Building Services Division

**Monitoring Timeframe:** Throughout construction period.

Implementation of the above mitigation measures would reduce impacts to less-than-significant levels.

### **Cultural Resources (Amended and Restated)**

- An archival cultural resource evaluation shall be implemented prior to the start of construction or other ground-disturbing activities to identify whether historic or unique archaeological resources exist within the project site. The archival cultural resource evaluation, or "sensitivity study," shall be conducted by a cultural resource professional approved by the City who meets the Secretary of the Interior's Professional Qualifications Standards for Prehistoric and Historical Archaeology.

The purpose of the archival cultural resource evaluation is to: (1) identify documentation and studies to determine the presence and location of potentially significant archaeological deposits; (2) determine if such deposits meet the definition of a historical resource under CEQA Guidelines Section 15064.5 or a unique archaeological resource under CEQA Section 21083.2(g); (3) guide additional archaeological work, potentially including pre-construction subsurface archaeological investigation if warranted, to recover the information potential of such deposits; and (4) define an archaeological monitoring plan, if warranted. If excavation is the only feasible means of data

recovery, such excavation shall be in accord with the provisions of CEQA Guidelines Section 15126.4(b)(3)(C). Any additional archaeological work and or monitoring shall be pursuant to a plan approved by the City. If a pre-constructing testing program is deemed necessary by the qualified professional as a result of the archival study, it shall be guided by the archival study and shall use a combination of subsurface investigation methods (including backhoe trenching, augering, and archaeological excavation units, as appropriate).

Representatives of established local Chinese-American organizations (including the Chinese Historical Society of America and the Oakland Asian Cultural Center) shall be invited to participate in a focused community review of the archival cultural resource evaluation prior to any subsequent recovery of potential resources or prior to the start of construction, whichever is earlier. The City shall consider the community comments in its review and approval of any plan for additional archaeological work or monitoring.

Should an archaeological artifact be discovered on-site during project construction, all activities within a 50-foot radius would be halted until the findings can be fully investigated by a qualified archaeologist to evaluate the find and assess the significance of the find according to the CEQA definition of a historical or unique archaeological resource. If the deposit is determined to be significant, the project sponsor and the qualified archaeologist shall meet to determine the appropriate avoidance measures or other appropriate mitigation, subject to approval by the City of Oakland, which shall assure implementation of appropriate mitigation measures recommended by the archaeologist. Should archaeologically significant materials be recovered, the qualified archaeologist would recommend appropriate analysis and treatment, and would prepare a report on the findings for submittal to the Northwest Information Center.

If historic or unique archaeological resources associated with the Chinese community are identified within the project site and are further determined to be unique, the City shall consult with representatives of an established local Chinese-American organization(s) regarding the potential use of the archaeological findings for interpretive purposes.

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

**Monitoring Action(s):** Project sponsor shall prepare and submit to Planning Division for review and approval an archival cultural resource evaluation. Project sponsor shall contact qualified archaeologist in the event that artifacts are discovered during construction. Archaeologist shall consult with Planning Division and with representatives of local Chinese-American community regarding any such discovery and shall undertake data recovery as warranted based on the nature of the discovery.

**Monitoring Responsibility:** CEDA, Planning Division

**Monitoring Timeframe:** Review and accept archival cultural resource evaluation prior to the start of any ground-disturbing activities. Direct data recovery, as applicable, in the event that artifacts are discovered during the construction period.

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

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



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

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

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

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

**Monitoring Timeframe:** Throughout construction period.

Implementation of the above mitigation measures would reduce impacts to less-than-significant levels.

2005 JUN 16 PM 9:12 *[Signature]*

Deputy City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

---

**A RESOLUTION APPROVING AND AUTHORIZING THE CITY TO ENTER INTO AN ELEVENTH AMENDMENT TO THE DISPOSITION AND DEVELOPMENT AGREEMENT WITH SHORENSTEIN REALTY INVESTORS THREE, L.P., REGARDING THE CITY CENTER PROJECT: (1) ALLOWING FOR A RESIDENTIAL LAND USE OPTION ON BLOCK T-12; (2) ESTABLISHING EIGHT MILLION ONE HUNDRED THOUSAND DOLLARS (\$8,100,000) AS THE RESIDENTIAL SALES PRICE FOR BLOCK T-12; (3) REDUCING THE TIME LIMIT TO DEVELOP BLOCK T-12 BY THREE YEARS, TO A ONE YEAR OPTION TO PURCHASE; AND (4) EXTENDING THE TIME LIMIT TO DEVELOP BLOCKS T-5/6 BY FOUR YEARS TO DECEMBER 31, 2013**

**WHEREAS**, the City of Oakland ("City"), the Redevelopment Agency of the City of Oakland ("Agency") and Shorenstein Realty Investors Three ("SRI III") are parties to a Disposition and Development Agreement ("DDA") whereby SRI III is the master developer of the twelve block area in the Central District Urban Renewal Area commonly referred to as the City Center Project; and

**WHEREAS**, the DDA, which sets forth the terms and conditions whereby SRI III may purchase and develop the various parcels within the City Center Project, has been amended ten times, most recently in 2002; and

**WHEREAS**, the parties to the DDA desire to further amend certain terms of the DDA including, among other things to, (1) allow for a residential land use option on block T-12; (2) establish eight million one hundred thousand dollars (\$8,100,000) as the residential sales price for block T-12; (3) reduce the time limit to develop block T-12 by three years, to a one year option to purchase; and (4) extend the time limit to develop blocks T-5/6 by four years to December 31, 2013, all as more fully described in the agenda report for this matter; and

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

**WHEREAS**, an Environmental Impact Report ("EIR") (certified by the Oakland Planning Commission on April 26, 2000), has been prepared for the City Center project as proposed by Shorenstein Realty Partners Three, L.P., and has been independently reviewed and considered by the City in evaluating the City Center project in compliance with CEQA, the Guidelines for Implementation of the California Environmental Quality Act (14 CCR Sections 15000, et seq., the "State EIR Guidelines"), and the City's Environmental Review Regulations; and

**WHEREAS**, the Planning Commission and the City determined that the EIR examined a reasonable range of alternatives, and that each alternative was rejected as infeasible for various reasons; and

**WHEREAS**, the Planning Commission and the City found and determined that all adverse environmental effects of the City Center project, with the exception of (1) increase in traffic delays in the downtown, (2) cumulative contribution to regional air pollutant problems, (3) cumulative noise impacts, and (4) exceedances of the 36-mph "wind hazard" speed could occur, would be less than significant or reduced to less-than-significant levels after implementation of the mitigation measures identified in the EIR and the mitigation monitoring program; and

**WHEREAS**, the Planning Commission and the City found and determined that the benefits of the City Center project outweigh any unavoidable adverse impact of the Project; and

**WHEREAS**, the Planning Commission and City both approved the Project and a Notice of Determination was subsequently filed; and

**WHEREAS**, Addendum #1 to the EIR, was prepared for increases in residential density and the elimination of office use for Block T-10 in October 2003, which was independently reviewed and considered by the Agency, and which concluded that none of the changes to the T-10 Project or circumstances under which it will be undertaken require preparation of a subsequent or supplemental EIR, as specified in CEQA and the CEQA Guidelines, including without limitation, Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 and 15163; and

**WHEREAS**, both the Planning Commission and the City both approved the Block T-10 revisions to the Project and a Notice of Determination was subsequently filed; and

**WHEREAS**, a June 2005 Addendum #2 to the EIR was prepared to reflect a residential land use option on Block T-12 which has been independently reviewed and considered by the Agency for applicability to the proposed Project, and which has

concluded that none of the changes to the T-12 Project or circumstances under which it will be undertaken require preparation of a subsequent or supplemental EIR, as specified in CEQA and the CEQA Guidelines, including without limitation, Public Resources Code Section 21166 and CEQA Guidelines Sections 15162 and 15163; and

**WHEREAS**, notice of the public hearing regarding the Eleventh Amendment to the DDA was given by publication at least once a week for not less than two weeks prior to the public hearing in a newspaper of general circulation in Alameda County; and

**WHEREAS**, as required by Section 33433 of the California Community Redevelopment Law, the Agency has made available to the public for inspection, no later than the first date of publication of the notice for the hearing, a report that contained a copy of the terms of the draft Eleventh Amendment to the DDA; and

**WHEREAS**, the Agency has approved the execution of the Eleventh Amendment to the DDA by resolution after a public hearing; now, therefore, be it

**RESOLVED**: That the City hereby finds and determines: (1) that it has been presented and has independently reviewed and considered the information contained in the previously certified EIR and Addendum #2, and the EIR and Addendum #2 comply with CEQA and the CEQA Guidelines' requirements for analysis of the Project's environmental effects and mitigation measures; (2) that the mitigation measures adopted by the City in considering the EIR and approving the DDA, together with a mitigation monitoring program for the Project, are hereby amended and adopted as specified in the attached Exhibit A; and (3) that none of the changes to the project, or circumstances under which it will be undertaken, or new information of substantial importance require preparation of a subsequent or supplemental EIR; and be it further

**RESOLVED**: That the City hereby approves and authorizes the City Administrator or her designee to negotiate and execute an Eleventh Amendment to the DDA with Shorenstein as set forth hereinabove and to take any other action with respect thereto consistent with this Resolution and its basic purpose; and be it further

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

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

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2005

**PASSED BY THE FOLLOWING VOTE:**

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

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_  
                 LATONDA SIMMONS  
                 City Clerk and Clerk of the Council  
                 of the City of Oakland

**EXHIBIT A**

**MITIGATION MONITORING PROGRAM – BLOCK T-12**

**MITIGATION MEASURES AND MONITORING PROGRAM  
CASE FILE NO. PUD 05185**

CITY CENTER PROJECT – EIR ADDENDUM #2

(Changes from August 18, 2004 Revised and Amended)

***APPLICABLE 2000 FEIR MITIGATION MEASURES – TRAFFIC, CIRCULATION  
AND PARKING (AMENDED AND RESTATED)***

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

**Mitigation Measure B.1a:** At 12th and Brush Streets, the Block T12 project sponsor (if Option 2 is selected), along with the developer of Block T5/6 (Shorenstein or its successor) shall work with Caltrans and coordinate with the City to consider various improvement options, which could include signal timing improvements or additional lanes on the ramp. The developer shall fund its fair share of any required improvements. Because implementation of this measure requires consultation with Caltrans, the City cannot ensure that the mitigation measure could be implemented and the anticipated impact is therefore considered to be significant and unavoidable.

**Responsible Implementing Entity:** Oakland Public Works Agency, Traffic Engineering Division; Caltrans

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

**Monitoring Responsibility:** CEDA, Planning Division; Public Works Agency, Traffic Engineering Division

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

**Mitigation Measure B.4:** The requirement to submit a parking study for future phases of the City Center Project is not included in this Addendum, for the following reasons. First, the Modified Block T12 Project, along with the previously approved Modified Project on Block T10, would reduce the overall City Center Project parking shortfall by nearly 80 percent, compared to that reported in the 2000 FEIR. Furthermore, the parking shortfall would be nearly completely eliminated on Block T12 itself. If Block T12 is builtout under Option 2, a parking shortfall of up to 430 spaces could occur; however, parking spaces that may be available through a lease agreement in the City Center West Garage could further reduce the parking shortfall. Finally, a 2002 California Court of Appeal decision (regarding a challenge to San Francisco's treatment of parking as a social, not physical, effect), decided subsequent to certification of the 2000 FEIR, held that parking is not part of the permanent physical environment, and that parking conditions change over time as people change their travel patterns, unmet parking demand created by the project need not be considered a significant environmental effect under CEQA unless it would cause significant secondary physical effects. At the time that the developer of Block T5/6 applies for a final development plan, the City could nevertheless require a parking study as part of the approval process, if deemed necessary.

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

**Mitigation Measure B.5:** For the final phase of the project construction following Block T12 (Block T5/6), the developer of Block T5/6 (Shorenstein or its successor), if the Block T5/6 building includes office space, shall conduct a study, subject to the review and approval of the City Traffic Engineering Division, to determine whether there is adequate exiting capacity at the 12th Street station. The Block T5/6 developer shall work with BART to assure that with buildout of the project (all four buildings), adequate exit fare gates are available at the 11th Street exits in the a.m. peak hour so that the maximum passenger wait does not exceed two minutes to be processed through the fare gates. This may require the addition of one or more new fare gates at the 11th Street exit to the station. Implementation of this measure would reduce the anticipated impact to less-than-significant levels.

**Responsible Implementing Entity:** Planning Division; Oakland Public Works Agency, Traffic Engineering Division; BART

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

**Monitoring Responsibility:** CEDA, Planning Division; Public Works Agency, Traffic Engineering Division

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

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

**Mitigation Measure B.6:** The project shall provide an adequate number of bicycle parking spaces, as determined by the City, in location(s) either on-site or within a three-block radius, or through payment of appropriate in-lieu fees. Implementation of this measure would reduce the anticipated impact to less-than-significant levels.

**Responsible Implementing Entity:** Planning Division; Oakland Public Works Agency, Traffic Engineering Division; BART

**Monitoring Action(s):** Planning Division and Public Works Agency, Traffic Engineering Division shall review project's proposed bicycle parking plan.

**Monitoring Responsibility:** CEDA, Planning Division; Public Works Agency, Traffic Engineering Division

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

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

**Mitigation Measure B.7:** Prior to the start of excavation or construction on all project blocks, the project sponsors would submit to the City Traffic Engineering Division for review and approval a plan for managing construction-period traffic and parking. This plan would include information on routing of construction traffic, deliveries of large items, provision of off-street parking for construction workers, use of on-street parking spaces, off-street equipment staging, and any encroachment into public streets that would affect traffic flow, public parking, or pedestrian access and safety. Implementation of this measure would reduce the anticipated impact to less-than-significant levels.

**Responsible Implementing Entity:** Planning Division; Oakland Public Works Agency, Traffic Engineering Division



**Monitoring Action(s):** Public Works Agency, Traffic Engineering Division shall review project sponsor's construction-period traffic and parking plan.

**Monitoring Responsibility:** CEDA, Planning Division; Public Works Agency, Traffic Engineering Division

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

### ***APPLICABLE 2000 FEIR MITIGATION MEASURES – air quality (RESTATED)***

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

**Mitigation Measure C.1:** The project sponsors (Shorenstein, or its successor, as applicable) shall require the construction contractor to implement a dust abatement program.

Elements of this program shall include the following:

- Water all active construction areas at least twice daily;
- Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer);
- Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites;
- Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites;
- Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets; and
- Designate a person or persons to oversee the implementation of a comprehensive dust control program and to increase watering, as necessary.

The above list of measures are recommended by BAAQMD as feasible control measures to reduce construction dust emissions at sites, such as the individual development blocks associated with the project, which are less than four acres in area. With implementation of these mitigation measures, the residual effect would be less than significant.

In addition, the following measures, which are identified in the EIR on the *Oakland General Plan Land Use and Transportation Element* (City of Oakland, 1997; p. III.E-26) for future development projects, are recommended to minimize construction equipment emissions during the construction period:

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

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

Implementation of these measures would reduce the anticipated impact to less-than-significant levels.

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

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

**Monitoring Responsibility:** CEDA, Building Services Division

**Monitoring Timeframe:** Throughout the construction period.

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

**Mitigation Measure C.2a:** Throughout operation of the project, the office developer (Shorenstein or its successor) shall implement Transportation Control Measures identified in the *General Plan Land Use and Transportation Element EIR*.

The following Transportation Control Measures shall be implemented to increase the likelihood that the assumed level of use of alternative travel modes (i.e., transit and carpool) that has been incorporated into the impact analysis would be exceeded in practice and, furthermore, to reduce estimated vehicle-related NO<sub>x</sub> emissions by four percent, which would reduce the impact to less than significant (i.e., to less than 80 pounds per day). (For each measure, the estimated effectiveness in reducing vehicle trips is given in parentheses.)

- Implement a carpool/vanpool program (e.g. carpool ridesharing for employees, assistance with vanpool formation, provision of vanpool vehicles, etc.) (effectiveness 1.0 to 4.0 percent of work trips);
- In coordination with AC Transit and City staff, construct transit facilities such as bus turnouts/bus bulbs, benches, and shelters along the road segments that define the development blocks (effectiveness 0.5 to 2.0 percent of all trips);
- Provide preferential parking (e.g., near building entrance) and reduced/eliminated parking fees in the City Center Garage and City Center West Garage for carpool and vanpool vehicles (effectiveness 0.5 to 1.5 percent of work trips for preferential location; 2 percent or more of work trips for reduced parking fees);
- Provide employer subsidy of transit passes (such as through the Metropolitan Transportation Commission's "Commuter Check" program);
- Provide secure, weather-protected long-term bicycle parking for future residents and employees at the proposed retail and office uses (effectiveness 0.5 to 2.0 percent of work trips);
- Provide showers and lockers for employees bicycling or walking to work at the proposed retail and office uses (effectiveness 0.5 to 2.0 percent of work trips); and

- Provide secure short-term bicycle parking for future retail customers (effectiveness 1.5 to 2.0 percent of non-work trips).

Implementation of these measures would reduce the anticipated impact to less-than-significant levels.

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

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

**Monitoring Responsibility:** CEDA, Planning Division and Building Services Division; Oakland Public Works Agency, Traffic Engineering Division

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

**Mitigation Measure C.2b:** The office developer (Shorenstein or its successor) shall implement Mitigation Measure B.5 (improvements to BART 12th Street Station exit gates) to facilitate use of BART by project workers.

Implementation of these measures would reduce the anticipated impact to less-than-significant levels.

**Responsible Implementing Entity:** Planning Division; Oakland Public Works Agency, Traffic Engineering Division; BART

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

**Monitoring Responsibility:** CEDA, Planning Division; Public Works Agency, Traffic Engineering Division

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

### ***APPLICABLE 2000 FEIR MITIGATION MEASURES – noise (AMENDED AND RESTATED)***

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

**Mitigation Measure D.1a:** The project sponsor shall require construction contractors to limit standard construction activities as required by the City Building Department. Such activities are generally limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, with pile driving and/or other extreme noise generating activities greater than 90 dBA limited to between 8:00 a.m. and 4:00 p.m. Monday through Friday, with no extreme noise generating activity permitted between 12:30 p.m. and 1:30 p.m. No construction activities shall be allowed on weekends until after the building is enclosed, without prior authorization of the Building Services Division, and no extreme noise generating activities shall be allowed on weekends and holidays.

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

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

**Monitoring Responsibility:** CEDA, Building Services Division

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

**Mitigation Measure D.1b:** To reduce daytime noise impacts due to construction, the project sponsor shall require construction contractors to implement the following measures:

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

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

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

**Monitoring Responsibility:** CEDA, Building Services Division

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

**Mitigation Measure D.1c:** To further mitigate potential other extreme noise generating construction impacts, a set of site-specific noise attenuation measures shall be completed under the supervision of a qualified acoustical consultant. Prior to commencing construction, a plan for such measures shall be submitted for review and approval by the City to ensure that maximum feasible noise attenuation will be achieved. These attenuation measures shall include as many of the following control strategies as feasible:

- Erect temporary plywood noise barriers around the construction site, particularly along the eastern boundary along 14th Street to shield the adjacent multi-family residential buildings;

- Implement “quiet” pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration), where feasible, in consideration of geotechnical and structural requirements and conditions;
- Utilize noise control blankets on the building structure as the building is erected to reduce noise emission from the site;
- Evaluate the feasibility of noise control at the receivers by temporarily improving the noise reduction capability of adjacent buildings; and
- Monitor the effectiveness of noise attenuation measures by taking noise measurements.

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

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

**Monitoring Responsibility:** CEDA, Building Services Division

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

**Mitigation Measure D.1d:** Prior to the issuance of each building permit, along with the submission of construction documents, the project sponsor shall submit to the City Building Department a list of measures to respond to and track complaints pertaining to construction noise. These measures shall include:

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

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

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

**Monitoring Responsibility:** CEDA, Building Services Division

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

Implementation of Mitigation Measure D.1a through D.1d would reduce construction noise impacts to a less-than-significant level.

***APPLICABLE 2000 FEIR MITIGATION MEASURES – shadow and wind (RESTATED)***

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

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

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

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

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

This anticipated impact may remain significant even after implementation of these measures. Consistent with the 2000 FEIR, a condition of approval shall be incorporated into the Modified Project requiring further wind-tunnel testing for any project that includes development in excess of 100 feet in height, in order to reduce wind impacts to the maximum extent feasible, although it is possible that the impact would not be reduced to a less-than-significant level.

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

**Monitoring Action(s):** For Block T12, if Option 2 (i.e., a building in excess of 100 feet tall) is selected, Planning Division shall require wind-tunnel testing. For subsequent phases of the City Center Project, Planning Division shall similarly require wind-tunnel testing for buildings taller than 100 feet, unless a qualified wind expert determines no testing is required.

**Monitoring Responsibility:** CEDA, Planning Division

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

***MITIGATION FOR ISSUES ANALYZED IN THE INITIAL STUDY***

**Geology and Soils (Restated)**

- Construction operations, especially excavation and grading operations, shall be confined as much as possible to the dry season, in order to avoid erosion of disturbed soils; and
- Final project landscaping plans shall be submitted to the Planning Director for review and approval.

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

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

**Monitoring Responsibility:** CEDA, Building Services Division

**Monitoring Timeframe:** Throughout construction period.

Implementation of the above mitigation measures would reduce impacts to less-than-significant levels.

### **Hydrology and Water Quality (Amended and Restated)**

- The applicant shall be required to pay fees to compensate the City for the cost of any system upgrades required to accommodate increased runoff from the proposed project; and
- The applicant shall be required to grade unpaved areas to control surface drainage and redirect surface water away from areas of activity during excavation and construction; and
- The project applicant shall be required to comply with the Alameda Countywide Clean Water Program NPDES permit, and would implement appropriate source control and site design measures, *and design and implement stormwater treatment measures to reduce stormwater pollution to the maximum extent practicable.*

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

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

**Monitoring Responsibility:** CEDA, Building Services Division

**Monitoring Timeframe:** Throughout construction period.

Implementation of the above mitigation measures would reduce impacts to less-than-significant levels.

### **Cultural Resources (Amended and Restated)**

- An archival cultural resource evaluation shall be implemented prior to the start of construction or other ground-disturbing activities to identify whether historic or unique archaeological resources exist within the project site. The archival cultural resource evaluation, or “sensitivity study,” shall be conducted by a cultural resource professional approved by the City who meets the Secretary of the Interior’s Professional Qualifications Standards for Prehistoric and Historical Archaeology.

The purpose of the archival cultural resource evaluation is to: (1) identify documentation and studies to determine the presence and location of potentially significant archaeological deposits; (2) determine if such deposits meet the definition of a historical resource under CEQA Guidelines Section 15064.5 or a unique archaeological resource under CEQA Section 21083.2(g); (3) guide additional archaeological work, potentially including pre-construction subsurface archaeological investigation if warranted, to recover the information potential of such deposits; and (4) define an archaeological monitoring plan, if warranted. If excavation is the only feasible means of data

recovery, such excavation shall be in accord with the provisions of CEQA Guidelines Section 15126.4(b)(3)(C). Any additional archaeological work and or monitoring shall be pursuant to a plan approved by the City. If a pre-constructing testing program is deemed necessary by the qualified professional as a result of the archival study, it shall be guided by the archival study and shall use a combination of subsurface investigation methods (including backhoe trenching, augering, and archaeological excavation units, as appropriate).

Representatives of established local Chinese-American organizations (including the Chinese Historical Society of America and the Oakland Asian Cultural Center) shall be invited to participate in a focused community review of the archival cultural resource evaluation prior to any subsequent recovery of potential resources or prior to the start of construction, whichever is earlier. The City shall consider the community comments in its review and approval of any plan for additional archaeological work or monitoring.

Should an archaeological artifact be discovered on-site during project construction, all activities within a 50-foot radius would be halted until the findings can be fully investigated by a qualified archaeologist to evaluate the find and assess the significance of the find according to the CEQA definition of a historical or unique archaeological resource. If the deposit is determined to be significant, the project sponsor and the qualified archaeologist shall meet to determine the appropriate avoidance measures or other appropriate mitigation, subject to approval by the City of Oakland, which shall assure implementation of appropriate mitigation measures recommended by the archaeologist. Should archaeologically significant materials be recovered, the qualified archaeologist would recommend appropriate analysis and treatment, and would prepare a report on the findings for submittal to the Northwest Information Center.

If historic or unique archaeological resources associated with the Chinese community are identified within the project site and are further determined to be unique, the City shall consult with representatives of an established local Chinese-American organization(s) regarding the potential use of the archaeological findings for interpretive purposes.

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

**Monitoring Action(s):** Project sponsor shall prepare and submit to Planning Division for review and approval an archival cultural resource evaluation. Project sponsor shall contact qualified archaeologist in the event that artifacts are discovered during construction. Archaeologist shall consult with Planning Division and with representatives of local Chinese-American community regarding any such discovery and shall undertake data recovery as warranted based on the nature of the discovery.

**Monitoring Responsibility:** CEDA, Planning Division

**Monitoring Timeframe:** Review and accept archival cultural resource evaluation prior to the start of any ground-disturbing activities. *Direct data recovery, as applicable, in the event that artifacts are discovered during the construction period.*

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

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



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

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

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

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

**Monitoring Timeframe:** Throughout construction period.

Implementation of the above mitigation measures would reduce impacts to less-than-significant levels.