

CITY OF OAKLAND
COUNCIL AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2004 SEP -1 PM 6:11

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community and Economic Development Agency
DATE: September 14, 2004

RE: REPORT AND RESOLUTION AUTHORIZING A MEMORANDUM OF UNDERSTANDING AND AUDIT AGREEMENT WITH THE STATE OF CALIFORNIA BUSINESS, TRANSPORTATION AND HOUSING AGENCY REGARDING THE CITY OF OAKLAND'S ENTERPRISE ZONE PROGRAM

SUMMARY

The State of California designated the City of Oakland as an Enterprise Zone (EZ) in 1993 based on a competitive application. The State periodically audits Enterprise Zones such as Oakland to monitor how they are functioning in relation to their original applications. **Attachment A** and **Attachment B** are the result of the State's recently concluded audit of the City's Enterprise Zone program. The State requires a City Council resolution authorizing the City Administrator to enter into a Memorandum of Understanding (MOU) and Audit Agreement with the State of California Business, Transportation and Housing Agency to improve some local measures, comply with the State's new interpretation of the EZ program, and to examine development trends and progress within Oakland's Enterprise Zone. Failure to execute these agreements may result in de-designation of Oakland's status as a California Enterprise Zone, which provides eligible Oakland businesses with substantial savings on their State income taxes. Staff recommends City Council authorization to enter into the MOU and Audit Agreement.

FISCAL IMPACTS

De-designation of the Enterprise Zone (EZ) would result in a loss of approximately \$300,000 per year in voucher processing fees, which off-set the cost of the EZ program. De-designation would also have a substantial impact on Oakland-based businesses that take advantage of the tax credits. Oakland businesses file more than 10,000 hiring tax credit vouchers annually with the maximum allowable credit per employee exceeding \$30,000 over a five year period. Other EZ incentives include credits for sales and use taxes, business expense deductions, and net interest deductions for lenders. The EZ is one of Oakland's most significant incentives for attracting and retaining businesses, and the jobs and tax revenues they generate.

Among the provisions in the MOU and Audit Agreement is a requirement to obtain the State's approval prior to reducing the City's Enterprise Zone budget, which is currently supported by Workforce Investment Act funds and program income generated through a voucher processing fee. Staff attempted to have this provision removed from the MOU but the State refused. In

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addition, the Audit Agreement calls for extensive economic impact analysis of the EZ program and other business incentives dating back to 1993, which will require professional services expertise at an estimated cost of \$15,000 to \$25,000, which can be covered by appropriated EZ program income.

BACKGROUND

The State Trade, Technology and Commerce Agency, which was overseeing the Enterprise Zone program at the time, initiated its audit of Oakland in 2001. Nearly two years elapsed before the State resumed the audit for reasons unknown to staff. The audit process was then further delayed when the Davis Administration dismantled the Trade, Technology and Commerce Agency.

The State Enterprise Zone (EZ) program was then assigned to the Housing and Community Development (HCD) Section of the Business, Transportation and Housing Agency (BTH). Oakland staff briefed the HCD Section Chief on Oakland's audit situation, and was given assurances that the audit would be resolved to staff's satisfaction. Staff received a draft Memorandum of Understanding (MOU) and Audit Agreement on May 7, 2004. Staff then spent the next two months in negotiations with the State, which resulted in the attached MOU and Audit Agreement language.

KEY ISSUES AND IMPACTS

The Workforce Development Unit processes approximately 10,000 hiring tax credit vouchers per year for Oakland-based businesses located in the Enterprise Zone. Over a period of five years, a business can claim up to \$30,000 in State Income Tax credits for hiring and retaining eligible employees. A survey conducted last year indicated that fewer than 20% of the businesses eligible to claim the hiring tax credits are actually doing so. As part of the Oakland Workforce Investment Board's (WIB) Business Services Plan, the marketing of the Enterprise Zone program and development of an automated system to process vouchers are high priorities and are underway. To cover the costs associated with processing the vouchers and providing related business services to customers, the City receives a fee of \$30 per voucher. That totals \$300,000 per year in program income.

Given structural and staffing changes that have taken place in Oakland in the past 11 years, the State auditors had several findings based on the City's original application submitted in 1993. The State is also in the process of tightening the legislation that governs the EZ program to standardize vouchering practices. An example is the practice of issuing vouchers for businesses operating in other Enterprise Zones, which is known as cross-jurisdictional vouchering. When State officials expressed concerns in August of 2003 about Oakland's cross-jurisdictional vouchering activities, staff voluntarily suspended the practice. Nonetheless, the State then conducted a supplemental audit of Oakland's vouchering process and, through the Audit Agreement, is directing restrictions and controls on the City's vouchering process, which staff has already implemented. Another major task required of staff to respond to the State's audit is a

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progress report on development in Oakland since 1993 and an analysis of the EZ incentives that have stimulated economic growth compared to those pledged in the City's original application for EZ designation. This task may necessitate a re-examination of Oakland's overall economic development incentive tools.

PROGRAM DESCRIPTION

Attachment A is the boilerplate that the State now uses for its Enterprise Zone Program MOUs. **Attachment B** is the Audit Agreement, which describes the six-month remediation time frame and terms for determining the City's compliance with the Enterprise Zone program. Staff should comply with all of these measures on or before the March 15, 2005 deadline.

Among the provisions in the MOU and Audit Agreement is a requirement to obtain the State's approval prior to reducing the City's Enterprise Zone budget, which is currently supported by Workforce Investment Act funds and program income generated through a voucher processing fee. City staff attempted to have this provision removed from the MOU but the State refused.

SUSTAINABLE DEVELOPMENT

Economic: The Enterprise Zone saves Oakland businesses millions of dollars in State income taxes, which is a significant incentive for business attraction and retention.

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

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

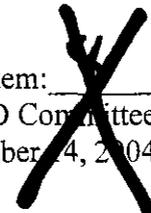
DISABILITY AND SENIOR CITIZEN ACCESS

The Enterprise Zone program also provides tax incentives to businesses that hire disabled individuals and senior citizens.

RECOMMENDATIONS AND RATIONALE

Staff recommends that the City Council adopt the resolution authorizing the City Administrator to enter into a Memorandum of Understanding and Audit Agreement with the State. The agreement will close an audit that has been left open for two years and will enable Oakland to maintain its designation as an Enterprise Zone at least through 2008.

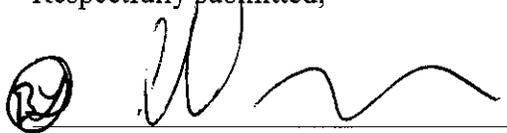
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ACTION REQUESTED OF THE CITY COUNCIL

Adopt the resolution authorizing the City Administrator to enter into a Memorandum of Understanding and Audit Agreement with the State regarding the Enterprise Zone program.

Respectfully submitted,



DANIEL VANDERPRIEM
Director of Redevelopment, Economic
Development and Housing

Prepared by:
Al Auletta, Workforce Development Manager

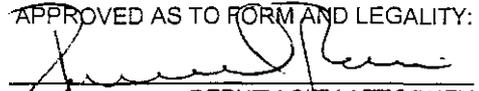
APPROVED AND FORWARDED TO THE
COMMUNITY AND ECONOMIC
DEVELOPMENT COMMITTEE


Office of the City Administrator

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APPROVED AS TO FORM AND LEGALITY:


DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

INTRODUCED BY THE CITY ADMINISTRATOR

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING AND AUDIT AGREEMENT WITH THE STATE OF CALIFORNIA BUSINESS, TRANSPORTATION AND HOUSING AGENCY REGARDING THE CITY OF OAKLAND'S ENTERPRISE ZONE PROGRAM

WHEREAS, the California Enterprise Zone program is designed to promote business growth and job creation in under-developed urban areas throughout the State; and

WHEREAS, the City of Oakland was designated as an Enterprise Zone in 1993; and

WHEREAS, City staff processes approximately 10,000 Enterprise Zone hiring tax credit vouchers per year for more than 300 Oakland-based businesses, which saves them millions of dollars on their State income taxes and is one of the City's strongest incentives for business attraction and retention; and

WHEREAS, the State initiated a routine audit of Oakland's Enterprise Zone program which revealed the need for corrective actions based on the City's original application to the State in 1993 to obtain Enterprise Zone designation and on the State's newly imposed restrictions on certain vouchering practices; and

WHEREAS, the State of California requires a City Council resolution to authorize the City Administrator to enter into a Memorandum of Understanding and Audit Agreement between the City and the State that establishes new terms and conditions to administer the Enterprise Zone program; now, therefore be it

RESOLVED: That the City Administrator is authorized to enter into a Memorandum of Understanding and Audit Agreement with the State of California Business, Transportation and Housing Agency accepting the new terms and conditions for administering the City's Enterprise Zone program; and be it

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FURTHER RESOLVED: That the City Administrator and her designee are hereby authorized to take whatever action is necessary consistent with this Resolution and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2004

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, AND PRESIDENT DE LA FUENTE

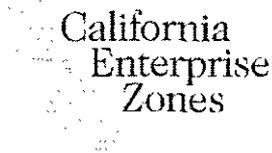
NOES-

ABSENT-

ABSTENTION-

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

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MEMORANDUM OF UNDERSTANDING AND AUDIT AGREEMENT
BETWEEN THE
CALIFORNIA ENTERPRISE ZONE PROGRAM
AND THE
CITY OF OAKLAND

Adopting an Audit Agreement specifying requirements, remedies and improvements of the City of Oakland for continued participation in the State Of California Enterprise Zone Program and setting forth the terms, conditions and schedules thereof

1. PURPOSE OF MOU AND AUDIT AGREEMENT

The purpose of this Memorandum of Understanding (MOU) is to set forth a written agreement between the California Enterprise Zone Program (Program) and the City of Oakland (City), for continued participation in the Program, and to adopt an Audit Agreement (Appendix "A") to amend baseline performance requirements, and enumerate remedies and improvements identified during a Program audit conducted on or about November 17, 2003, pursuant to Government Code Section 7076.1 et seq.

2. AGREEMENT PERIOD

This MOU, shall be in effect through the remaining term of the Oakland Enterprise Zone designation period or until amended or terminated in writing by either party. This MOU shall supersede and cancel any prior memorandum of understanding between the City of Oakland and the Agency (or its predecessor) with respect to the California Enterprise Zone Program.

"Appendix A, Audit Agreement" attached to and made a part of this MOU pursuant to Government Code Section 7076.1 sets forth a scope of work for a six-month period expiring March 15, 2005,

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3. DEFINITION OF TERMS

Capitalized terms as used in this MOU have the following definitions: **SEP 14 2004**

- A. "Act" means the Enterprise Zone Act (California Government Code § 7070 et seq.).
- B. "Agency" means the California Department of Housing and Community Development (HCD) or its successor. HCD has legislative authority and responsibility for the Enterprise Zone Program pursuant to the Act.

- C. "Audit" means the program performance audits mandated by Government Code Section 7076.1 et seq. conducted by the California Enterprise Zone Program.
- D. "Audit Agreement" means the Audit Agreement attached hereto as Appendix "A" and made a part this MOU.
- E. "City" means the City of Oakland, which is the local applicant for, and sponsor of, the Oakland Enterprise Zone.
- F. "De-designation" or "De-designate," means the Agency's action terminating this agreement, and/or rescinding the Zone designation in the event of non-performance pursuant to Government Code Section 7076.1.
- G. "Expansion" means an approved boundary expansion of, or an annexation to, the Zone of a contiguous and compatibly zoned area not included in the original designation.
- H. "MOU" refers to the agreement contained in this Memorandum of Understanding, and the attached Audit Agreement attached hereto as Appendix "A."
- I. "Plan" means the Economic Development Plan submitted by the City of Oakland in partial fulfillment of the requirements for a competitive application for the California Enterprise Zone designation, as may be amended pursuant to the Audit Agreement.
- J. "Program" means the State of California Enterprise Zone Program.
- K. "Program Income" means income earned from the evaluation of forms and supporting documentation submitted in application for a voucher, whether or not such application is approved.
- L. "Zone" means the Oakland Enterprise Zone.

4. CITY AND AGENCY PROGRAM COMMUNICATIONS

- A. The Oakland contact for this MOU is Mr. Al Auletta, (510) 238- 3752.
- B. The California Enterprise Zone Program Representative for this MOU is Robert Switzer, (916) 263-0460.
- C. All official communications from the Program to the City shall be directed to the Division within which the Enterprise Zone Program operates at the following address:

Mr. Al Auletta, Workforce Development Manager,
City of Oakland
Executive Director, Oakland Workforce Investment Board
250 Frank H. Ogawa Plaza, Ste. 3315
Oakland, CA 94612

D. All official written communications from the City to the Program shall be directed to:

Mr. Robert Switzer, Enterprise Zone Representative
State Enterprise Zone Program
Department of Housing and Community Development
Post Office Box 952054
Sacramento, CA 94252-2054
(916) 263-0460

5. AGENCY PROGRAM RESPONSIBILITIES

The Agency shall have the following responsibilities:

- A. **Inspections of Zone Activity:** Monitor and inspect any City and Zone plans and activities performed hereunder to ensure the City and Zone activity is being performed in accordance with the City's responsibilities as defined within this MOU and Audit Agreement, and in accordance with applicable laws, regulations, and guidelines, and to take corrective actions as provided by law.
- B. **Review and Approval of Plans, Agreements, and Products:** Review and approve Vouchering, Marketing, Incentive, Financing, Management and other Plans, agreements, documents and products required by this MOU.
- C. **Approve Address Eligibility:** Review, approve, deny, correct, and/or amend Zone applications for expansion, address corrections, and amendments necessary to ensure the eligibility of businesses for Program tax credits.
- D. **Assistance:** Provide technical assistance, consultation, research and analysis services to the City as requested consistent with Program resources.

6. CITY RESPONSIBILITIES

The City shall have the following responsibilities:

- A. **Performance:** To make substantial and sustained effort to revitalize economically depressed Zone areas through marketing, incentives and financing programs, job development and independent verification and issuance of vouchers, to fulfill the terms, conditions, and level of effort (staffing, budget, marketing, contracting) set forth in the original Zone application, as may be amended pursuant to this MOU, and supplemented or superseded by regulations, guidelines, and Program requirements issued during the Zone designation period.
- B. **Performance Obligations - Third Party Relationships:** Notwithstanding its designation of any third party for the undertaking of all or any part of the activities enumerated under this MOU, the City shall remain fully obligated under the provisions of this MOU. The City shall memorialize agreements with third parties identified in the original Zone application as may be amended pursuant to this MOU

to ensure that the Zone activities are carried out in accordance with the Program requirements.

- C. **Zone Manager, Zone Coordinator, Staff:** To authorize, designate and fund a Zone Manager, Zone Coordinator and/or staff, consistent with and as such terms are defined in the original Zone application and this MOU, who shall be a participating member of the City and County's economic development teams, and responsible for the Zone's program income, budget, Plan, vouchering, and implementation of this MOU.
- D. **Zone Budget/Maintenance of Effort:** To establish, fund and maintain a Zone budget, under the direction of the Zone Manager, to account for program income and implement the Economic Development Plan as may be amended by this MOU. Without prior Agency approval, the City shall not reduce the budget, staff allocation, or subcontracts to agencies or community organizations identified in the original application as may be amended pursuant to this MOU.
- E. **Program Income:** The City shall adopt policies to ensure that all revenues derived from fees charged to determine eligibility of voucher applicants are used to augment the Zone-related budget. The City shall submit a plan for administering Program Income. The plan must include a discussion of how the City will collect, disburse, and report program income for Zone vouchering activities.
- F. **Public-Private Participation:** The City shall integrate the Zone into the economic development/redevelopment structure of the City to provide an institutional venue for the regular participation of public and private stakeholders in decisions affecting the Zone, its Plan, work programs, and the implementation of this MOU.
- G. **Network Participation:** Provide for Zone Manager and vouchering agent participation in meetings required by the Program, and conferences of the California Association of Enterprise Zones to remain current on Program requirements.
- H. **Performance Reporting:** To prepare and submit report(s) of Zone performance pursuant to a format, schedule and deadlines that the Agency may require, and to notify the Agency of any changes in staffing, budget or level of effort from that set forth in the jurisdiction's original Zone application and Plan, as may be amended by, or pursuant to, this MOU. The City's performance under this agreement will be based in part on whether it has submitted the reports on a timely basis.
- I. **Vouchering Practices and Standards:** The City shall be solely responsible for independent, systematic, consistent and recorded verification that the documentation submitted in applications for hiring tax credit vouchers will satisfy all tests of a qualified employee, and that documentation is sufficiently detailed to substantiate the applicant claim. The City is responsible for recording the verification process, the basis upon which the vouchering decision is made, and maintaining records of the basis for the decision. The City must maintain a vouchering program at a minimum level of effort identified in the original application as may be amended by or pursuant to this MOU, sufficient to maintain the categorical standards for approval of vouchers set forth in Audit Agreement Sections I. B. and the supplemental voucher audit prepared by the Franchise Tax Board, and as may be supplemented or superseded by

statute, regulation, and written program guidelines. The City may not assign this responsibility without prior Agency approval.

- J. **Audit/Inspection and Retention of Records:** To maintain intact, auditable voucher records at all times. If the City is found to have incomplete or missing records of vouchers issued during the term of this agreement, the City will be required to submit files of all vouchering materials needed to determine the validity of the tax claim. The City's vouchering policies, procedures and practices are subject to review and approval by the Agency.

City agrees that the Program, Agency and their delegates have the right to receive, review, obtain, and copy all records pertaining to the Zone and/or its vouchering performance. City agrees to provide the Agency or its delegates with any relevant information requested and shall permit the Agency or its delegates access to its premises, upon reasonable notice, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with the designation, audit, or performance. Any voucher which is not authorized by regulation or determination of the Agency, or which cannot be adequately documented may be disallowed, rescinded or otherwise declared to be invalid.

The determination by the Agency of the validity of any voucher shall be final.

If so directed by the Agency upon termination of this agreement, or De-designation of the Zone, the City shall cause all records, accounts, documentation and all other materials relevant to the Zone activity to be delivered to the Agency as depository.

City agrees to maintain all Enterprise Zone records, including voucher applications, vouchers and supporting documentation for a minimum of five (5) years after expiration of the Zone designation.

- K. **Conflict of Interest of Employees, or other Public Officials.** To the extent applicable under State or local law, no employee, member of the governing body, or public official who exercise any functions or responsibilities with respect to the program during his/her tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in any contract, subcontract, or voucher, or the proceeds thereof, for activities to be performed in connection with the Zone.

7. AMENDMENT

No amendment or variation of the terms of this MOU shall be valid unless made in writing, and approved and signed by the parties to this MOU. No oral understanding or agreement not incorporated in this MOU is binding on any of the parties.

This MOU shall be amended prior to the termination of the Audit Agreement on March 15, 2005 to include approved plans set forth in the Audit Agreement.

8. DISPUTES

The Agency and the City agree to continue with their respective responsibilities under this MOU during any dispute. Disputes shall be resolved at the lowest level possible, through the normal chain of command for respective individuals involved. If a dispute arises under this MOU that cannot be resolved at the Program Representative and Zone Manager levels, then either party may, with notice to the other, elevate the dispute to the supervisors of the Program Representative and the Zone Manager respectively.

9. FAILURE TO MEET CONDITIONS

Failure to meet any of the conditions of this MOU places the City designation as a Zone in jeopardy. The Agency will closely monitor the City and Zone for performance and compliance.

Upon the expiration of the Audit Agreement on March 15, 2005, if the Agency determines that the Zone has not met or implemented at least seventy-five percent (75%) of the scope of work set forth in the Audit Agreement, the Agency shall provide written notification to the City (and to each jurisdiction comprising the Zone) that the Zone is to be De-designated and take such other actions as the Agency deems advisable or necessary consistent with the Act. The effect of written notification shall be to terminate this MOU and De-designate the Zone effective April 1, 2005.

10. PARTIAL SUCCESS IN MEETING AGREEMENT CONDITIONS

If upon expiration of the Audit Agreement on March 15, 2005, the Agency determines that the Zone has met or implemented at least seventy-five percent (75%) of the conditions set forth in the Audit Agreement, the Agency shall, pursuant to Government Code Section 7076.1 and in its sole and absolute discretion, do either of the following:

- (i) Allow the City an additional year, or a longer period in the Agency's discretion, to meet or implement those conditions in their entirety; or
- (ii) Provide a written notice to the City that the Zone is to be De-designated, and De-designate the Zone, effective January 1, 2006. The Agency will not unreasonably de-designate the Zone pursuant to Section 10. (ii), provided that the City has demonstrated a good faith effort to comply with each requirements of the Audit Agreement.

Nothing in this section shall be construed to extend the designation period or term of the Zone beyond the Zone expiration date provided by law.

11. DEDESIGNATION OF THE ZONE

The Agency may terminate this MOU in accordance with the Act if the Zone fails to demonstrate success in making substantial and sustained efforts in responding to audit findings, providing due diligence in the independent verification of voucher applications, or complying with the terms and conditions of "Section 6, City Responsibilities" subsections D., E., I or J. of this MOU, and the Plans required by the Audit Agreement as may be supplemented or superseded by statute, regulations, or written program guidelines. The Agency may De-designate the Zone in accordance with Government Code section 7076.1 by providing thirty (30) days written notice to the City. The effect of the notice specified in this section shall be to terminate this MOU and end Program designation of the Zone.

12. INDEMNIFICATION

Pursuant to the provisions of Government Code § 895.4, each party agrees to indemnify and hold the other party harmless from all liability for damage to persons or property arising out of, or resulting from, negligent acts or omissions of the indemnifying party. The Program's indemnity applies solely to its actions and does not extend to the actions of other business assistance and incentive programs with which the Program is affiliated.

13. APPROVAL

This MOU is not valid until approved by Resolution of the City and signed by all parties.

IN WITNESS WHEREOF, the parties have read, understand, and agree to the terms and conditions for retaining designation as a California Enterprise Zone as set forth in this MOU on the day, month and year noted.

Approved:

City of Oakland

Recommended for Approval:

Al Auletta, Zone Manager

Approved as to Form and Legality:

Deputy City Attorney

By: _____

_____ Date

Name: Deborah Edgerly

Title: City Administrator

California Enterprise Zone Program
Department of Housing and Community
Development, a public agency of the
State of California

By: _____

_____ Date

Name: _____

Title: _____

Appendix "A"

Audit Agreement For the Period ending March 15, 2005

1. This Audit Agreement is attached to and made a part of a Memorandum of Understanding (MOU) between the California Enterprise Zone Program (Program) and the City of Oakland (City) pursuant to an audit of the City's Enterprise Zone (Zone) conducted on or about November 17, 2003. Except as otherwise defined herein, capitalized terms used in this Audit Agreement shall have the respective meanings as set forth in the MOU.
2. The Agency has audited the Zone and determined that the City needs to (a) take corrective action to update the goals set forth in the City's application for Zone designation and its Economic Development Plan, and (b) improve its capacity and standards for verifying the validity of documentation submitted in application for the issuance of hiring tax credit vouchers. The Agency and City met to identify a targeted, substantial, and sustained effort that will remedy these deficiencies and to memorialize them in this Agreement.
3. The Agency will monitor City/Zone performance of this Audit Agreement to determine if the City/Zone has made a substantial and sustained effort to comply with the Audit Agreement.
4. If the Agency determines that the City/Zone has not met or implemented the scope of work set forth herein, the Agency may De-designate the Zone pursuant the Act as set forth in Sections 9 through Section 11 of the MOU and/or take such other actions as the Agency deems advisable or necessary consistent with the Act.

I. Vouchering Plan, Practices (35 % of Audit Agreement)

A. Vouchering Plan: The City shall develop a revised Zone Vouchering Plan, acceptable to the Agency, describing a Zone vouchering program that will independently verify application documentation submitted for each voucher. The Vouchering Plan will:

1. Identify City verification procedures for acceptable documentation required before a voucher can be approved.
2. Identify documentation to be maintained confirming that all procedures were satisfactorily performed.
3. Identify how the City's electronic system will monitor and report the voucher process, and incorporate safeguards ensuring the procedures are followed.
4. Identify how pertinent data will be electronically formatted and reported to the Agency.
5. Identify and memorialize the vouchering roles of Zone and non-Zone staff and agents.

B. Vouchering Standards: The City will adopt the following categorical standards for approval of all vouchers issued subsequent to this MOU and institutionalize them in the Vouchering Plan.

1. General Standards: For all vouchers issued the City shall:
 - a) Use the authorized EZ Voucher Form as may be adopted by the Agency, for all vouchers issued after the adoption of this agreement, including vouchers issued for hire dates prior to the adoption of this agreement.
 - b) Exercise due diligence to independently verify the information found in the employee's job application or other documentation submitted to prove eligibility for the employee.
2. Targeted Employment Area (TEA). For vouchers approved under this category the City shall:
 - a) Ensure vouchers are issued based upon the employee's address at the time of hire using documents completed at the time of hire such as the W-4.
 - b) Document that a TEA was duly designated at the time of hire.
 - c) Ensure that voucher files include appropriate documentation of the TEA address listing and verification procedures to confirm address at time of hire.
3. Dislocated Workers: For vouchers approved under this category the City will:
 - a) Provide proof of eligibility such as entitlement to unemployment insurance.
 - b) Document evidence that employee faced limited opportunity for employment or reemployment in the same or similar occupation in the area in which the employee resides.
4. JTPA 10% Category. For vouchers approved under the JTPA 10% Category the City will verify that the employee was actually enrolled in the JTPA program through an exception to the JTPA enrollment criteria.

C. Report All Cross-Jurisdictional Vouchers Issued: The City will provide to the Agency, and to each zone for which vouchers were issued, provide complete electronic images of all applications, vouchers and back up materials, and provide a data base listing the following data, for every cross-jurisdictional voucher issued by Oakland for business sites within each Zone. The cover letter content shall be approved by the Agency.

1. The name of each company
2. The street and city address of each company site
3. The voucher submission date
4. The employee name
5. The employee hire date
6. The criterion under which the employee qualified for the voucher
7. Totals by year: Number of vouchers, vouchers by qualification.

The City's fulfillment of this paragraph shall fulfill the Agency's requirements for Oakland's reporting of cross jurisdictional vouchers to Zones.

D. Prohibition of Cross-Jurisdictional Vouchering: The City practice of issuing vouchers for businesses and for secondary or subsidiary locations of businesses within other cities' zones is prohibited during the City's Zone designation period. This section shall be amended if supplemented, superseded or amended by statute, regulation, or written program policy.

II. Marketing Plan, Practices (15 % of Audit Agreement)

Subject to Agency approval of the products described in Sections A-D below, the Agency approves the City's use of a Citywide marketing plan in lieu of a Zone-specific marketing plan.

The City will prepare and adopt a consolidated multi-year marketing plan and FY 05 budget for a sustained effort to achieve retention, attraction and build-out goals in targeted clusters to include:

A. Preliminary Analysis: Prepare, submit to the Agency, and adopt an analysis of the City's clusters targeted for City/Zone activities. City may substitute any existing documentation which fulfils any of the following requirements:

1. An analysis indicating priority clusters, the firms comprising the clusters, the basis of selection and expectations.
2. Analyses of baseline characteristics of each targeted cluster.
3. The key needs of targeted clusters that must be met to ensure retention, expansion, and attraction, including current/projected space/facility needs.
4. Identify Oakland's vacant, developable industrial/commercial land within the Zone and calculate the total square feet of facilities that can be constructed upon this land.
5. Retention, expansion and attraction goals based on development expectations and build-out capacity.
6. The role of the Zone, hiring tax credits, and other incentives in achieving goals.

B. Marketing Plan: A City Marketing Plan shall include strategy, goals, objectives, actions and:

1. A multi-year work program listing quarterly cluster-liaison activities and alternatives to goals set forth in the City application.
2. Marketing activities estimated to achieve annual job goals of 500 retained, and 1750 attracted, regardless of economic fluctuations or actual performance.
3. City departments and/or staff roles in implementing the plan within the EZ.

4. An adopted, unified, multi-year marketing budget to begin Q1 FY 05.
5. Explicit language to discourage City marketing in other Zones for the purpose of using Zone Tax incentives as an inducement to business relocation.

C. Zone Specific Marketing Materials: City marketing materials shall be prepared which highlight the Zone tax advantages in its marketing materials, including:

1. Qualifying criteria for hiring tax credits, preferred documentation.
2. City services for businesses and job seekers.
3. Examples of hiring tax credits applied to priority clusters.
4. Give credit to the California Enterprise Zone Program, and hiring tax credits.
5. The City shall include discussion of Zone programs and incentives in all division business development marketing materials, and annual reports.

D. Reporting: The City shall formulate and submit to the Agency a Zone-specific reporting format to include the marketing actions and initiatives compared with quarterly and annual goals and objectives in Section II.B to permit Agency assessment of marketing effectiveness.

III. Local Incentives (15 % of Audit Agreement)

The Agency accepts use of citywide incentives, in lieu of Zone-specific incentives identified in the application, subject to approval of the following products described in Sections A-C below:

A. Incentive Analysis: The City will compare the monetary costs and job performance indicators of City incentives currently available within the zone, to the City incentives originally proposed for the zone, and to State hiring tax credit incentives. The purpose of this analysis is to verify that the substitute City incentives represent a City monetary effort comparable with the original City incentives, and the State's hiring tax credit incentives.

To comply with the requirements of this section, the City will identify all developments and companies receiving City Incentives and/or hiring since 1998 and the estimated value of incentives, and total of each. Using a randomly selected or representative sample of 20% of these firms, the City will estimate the value of City incentives originally proposed with the value of City incentives actually received, and provide the following data:

1. The name of the firm
2. The estimated City dollar costs of originally proposed incentives had they been in place (net of fees), compared with the actual cost of post 1998 incentives and the State costs of hiring tax credit incentives.
3. The estimated development impacts: post-permit jobs, vouchers, new tax revenues, etc.
4. Aggregated totals of the above.

B. Incentives Plan: If the above analysis does not substantiate that substituted incentives are fiscally comparable with original City incentives, or State tax credit incentives, the City shall adopt alternative incentives to achieve fiscal parity.

C. Annual Reports: The City will provide annual reports on the impacts of incentives within and outside of the Zone using the information outlined above.

IV. Zone Financing Programs (10% of Audit Agreement)

The Agency accepts use of citywide business financing incentives, in lieu of Zone-specific business financing incentives, subject to approval of the following products:

A. Zone-Specific Reports: A comprehensive report format presenting Zone-specific business loan information, and non-Zone business loan information, in instances where financing incentive tools are Citywide. The report format should conform to the above report for tax and permit incentives and include:

1. Company name, type
2. Cluster
3. Loan type
4. City, private and total dollars financed
5. Economic impacts measured in the number of jobs created/retained/attracted, the number of vouchered jobs, and facility expansion/build-out as a result of the loan.

B. Role of Agents and Delegates: The City will memorialize the role of One Stop Capital Shop and other organizations and agents providing services to the Zone by a memorandum of understanding, letter, or other agreement detailing the scope of Zone-related responsibilities, institutionalized relationships and reporting requirements.

V. Zone Management and Staffing (25 % of Audit Agreement)

A. Management and Staffing Plan: The City shall prepare and adopt a Zone Management and Staff Plan for submission to the Agency. The plan shall identify and include:

1. The staff responsibility for vouchering within the Zone, adequate to implement the marketing, vouchering, financing incentive and reporting functions set forth in the MOU and the FTB voucher audit performed on or about November 17, 2003.
2. The responsibility of other City departments, staff and subordinate organizations for marketing, incentives, financing and reporting.
3. An adopted, unified, multi-year budget to begin Q1 FY 05.

B. Program Income:

1. City shall use program income to augment City resources committed to, or necessary to, the conduct of vouchering and other Zone-related activities.
2. The City shall establish a tracking system to account for program income derived from vouchering fees.
3. The City shall record receipt and expenditure of program income as part of the annual report of Zone activity.

C. Electronic Data Base: Establish a viable electronic database that will provide timely, accurate and detailed quarterly reports to the Agency tabulating the business, employee, and qualification data. Demonstrate data base capacity to collect, maintain, tabulate and report data to identify the basis for approving or denying a claim, and documenting the verification process. Such voucher data shall include all information required by law, regulation, this MOU, Form EZ 1 (or its successor), annual reports, or as may be required by the Agency.

D. Zone Website: City commits to the following Website improvements:

1. Add, and/or enable, street address linkage or look-up feature to the addresses in Program website master list. City shall ensure that address information is consistent with listing maintained by the Agency.
2. City to ensure that website identifies the California Enterprise Zone Program, and the EZ Employment Tax Credits
3. The City shall remove voucher forms from its website, but may provide access to voucher applications and related information necessary for voucher application.
4. Identify the specific vouchering services provided to firms within the zone, such services to be enumerated on any Zone web site.

E. Fifteen Year Build-Out and Progress Reporting: During the audit agreement period, City will address the "build out" of vacant lands within the Zone from date of designation to present to assess zone performance and goals using the following data:

1. Base line data on the number and acreage of the Zone's vacant commercial and industrial parcels at designation, using mutually agreeable minimum size or value.
2. The number and acreage of such properties that have developed since designation and the estimated number of jobs that such space employs.
3. A current estimate of the number and acreage of vacant parcels suitable for development, and the proposed number of jobs that these parcels might generate.
4. Incorporate these findings into the Zone work program and activities to encourage build-out of remaining vacant parcels using incentives, marketing and other activities that relate to progress on these measures.
5. Based on 1 through 3, estimate data omitted from the Zone Five Year Report, regarding vacant property, taxes, businesses, and other relevant information. END

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