



FILED
OFFICE OF THE CITY CLERK
OAKLAND

2016 SEP -1 AM 10: 27

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Mark Sawicki
Director, EWD

SUBJECT: City Center 14th DDA Amendment

DATE: September 1, 2016

City Administrator Approval

Date:

8/31/16

RECOMMENDATION

Staff Recommends That The City Council Adopt:

A City Ordinance (A) Authorizing a 14th Amendment to the City Center Disposition and Development Agreement Between the City Of Oakland and Oakland T12 LLC for Development of Property Located At 601 12th Street to Extend Performance Dates and to Establish and Accept Extension and Administrative Fees, And (B) Separately and Independently Relying on (1) the "T12 Project California Environmental Quality Act ("CEQA") Analysis (Addendum #6)" Dated March 2016 To The Previously Certified 2000 City Center Environmental Impact Report, (2) the Previously Certified 1998 Land Use Transportation Element Environmental Impact Report and (3) the Previously Certified 2011 Redevelopment Plan Amendments Environmental Impact Report per CEQA Guidelines Sections 15164, 15183, 15183.3, and 15168 and 15180.

EXECUTIVE SUMMARY

Staff is proposing that the City Council authorize a 14th Amendment (the "14th Amendment") to the City Center DDA (the "DDA") between the City of Oakland ("City") and Oakland T12 LLC ("Oakland T12"), an affiliate of Shorenstein Properties LLC ("Shorenstein"), to (1) require that currently suspended construction on a 24-story, 650,000 square-foot Class A office building (the "Project") on property located at 601 12th Street (the "Property") resume within eighteen (18) months of execution of the 14th Amendment (the "Initial Resumption Date"), conditioned on Oakland T12 making a payment of \$500,000 to the City; (2) grant Oakland T12 two additional options to extend the Initial Resumption Date by twelve (12) months each for payments of \$250,000 for each 12-month extension, (3) extend the deadline for substantial completion of the project to the date that is thirty months following the date the Oakland T12 resumes construction of the Project, and (4) require Oakland T12 to make annual payments to the City in the amount of \$50,000 as compensation for staff costs related to administration of the DDA until the completion of Project construction.

Item: _____
CED Committee
September 13, 2016

BACKGROUND/LEGISLATIVE HISTORY

The Redevelopment Agency of the City of Oakland (the "Agency"), the City and the Grubb & Ellis Company executed the DDA on November 4, 1970. The agreement covers a twelve-block area of downtown Oakland bounded by Broadway, 11th Street, Martin Luther King, Jr. Way and 14th Street. The DDA was amended 13 times and assigned to Shorenstein pursuant to the Eighth DDA Amendment in 1996. The Property is the only remaining undeveloped parcel of land subject to the DDA.

On December 7, 2007, the Agency sold the Property to Oakland T12 for \$5.2 million. Oakland T12 started Project construction in October of 2008. In December of 2008, after completing the environmental clean-up of the Property, the developer suspended all construction activities at the site. At the time, Oakland T12 cited the widening national recession, rising vacancies in the regional office real estate market, and the loss of American President Lines, one of the anchor tenants in Shorenstein's former holdings in Oakland, as primary reasons for their action.

In February of 2011, pursuant to Agency Resolution No. 2010-0106 C.M.S. and City Ordinance No. 13037 C.M.S., the Agency, the City and Oakland T12 executed a 13th Amendment to the DDA extending development completion deadlines for the Project from April 2012 to April 2015, with two additional extension options of 12 months each for up to five years. However, Oakland T12 did not exercise its first extension option to extend the development completion deadline for the Project past April of 2015. Oakland T12 is now in default under the terms of the DDA.

After dissolution of the Agency in February of 2012, the Oakland Redevelopment Successor Agency ("ORSA") was established as the successor to the Agency and it assumed all rights and obligations of the Agency under the DDA.

In April of 2015, Oakland T12 informed the City that it was evaluating resumption of Project construction. Since Oakland T12 must sign up an anchor tenant for the building before starting construction, the developer decided that the Project can only be marketed effectively if they can show prospective tenants a fully-approved and fully-permitted Project that can be delivered by a certain date. Oakland T12 is therefore diligently working with City staff to secure all planning and building approvals required for the resumption of Project construction activities. Oakland T12 would also like to change certain performance dates in the DDA.

On October 20, 2015, by Resolution No. 2015-007 C.M.S., ORSA approved the assignment of the Successor Agency's interest in the DDA to the City, which assignment was thereafter approved on March 14, 2016 by Resolution No. 2016-2 of ORSA's Oversight Board. The Department of Finance approved the assignment on June 30, 2016. As a result, the City has the legal authority to amend the DDA without any further review or approval by these entities.

On April 6, 2016, the Oakland Planning Commission completed Project design review and approved a Final Development Plan ("FDP") for the Property, as well as adopted California Environmental Quality Act ("CEQA") Findings, as detailed below. The FDP describes the Project as follows:

- 24 stories/370 feet tall
- 588,000 square feet of office space
- 9,500 square feet of ground-floor commercial space
- Two large public plazas; and
- 260 structured parking spaces

ANALYSIS AND POLICY ALTERNATIVES

The 14th Amendment

New Proposed Extensions

Oakland T12 has asked for a 14th DDA Amendment to establish a new Project construction resumption date that would occur no later than 18 months from the date of executing the 14th DDA Amendment. Oakland T12 is also requesting an option for two further 12-month extensions to the Initial Resumption Date. The developer is prepared to make a payment of \$500,000 to the City for establishing the Initial Resumption Date, and a payment of \$250,000 for each of the two additional 12-month options to extend the Initial Resumption Date, if necessary. In addition to the extension fees payable to the City, Oakland T12 would make annual payments of \$50,000 as compensation to the City for staff administration of the DDA until completion of Project construction. The terms are summarized in **Attachment A** to this report.

Oakland's Class A Office Market

The office market in downtown Oakland continues to be characterized by decreasing vacancy rates and increasing rents as office users are leasing few remaining available spaces. In the second quarter of 2016, the vacancy rate in the Class A office market fell to 3.6 percent, while average full service asking rents were approaching \$4.40 per square foot or about \$52.80 per year signaling continued strong demand for office. Despite this momentum downtown Oakland's office rents are generally still not high enough to justify new construction at the Property at current office development costs of at least \$550 per square foot. A developer would need to receive annual full service rents of at least \$61 per square foot to cover development costs and investment return requirements.

However, Oakland T12 is uniquely positioned to start construction despite these market challenges. First, Oakland T12 bought the Property nine years ago and paid a land price that is well below current market levels. Second, Oakland T12 partially excavated and fully remediated the site, and bought and fabricated the steel for the Project in 2008. Lastly, Oakland T12 has secured all planning approvals and only needs to submit a building permit application. Given these circumstances, Oakland T12 can provide a potential tenant with reasonable certainty about the start and completion of the Project.

Policy Alternative

Instead of pursuing a 14th Amendment to the DDA, the City has the option to declare Oakland T12 in default and seek specific performance or other remedies for the developer's failure to

complete the building by the April 2015 deadline. Among the remedies provided for in the DDA, the City could seek to recover the Property. Pursuant to the terms of the DDA, under this scenario, the City would not be required to pay Oakland T12 upfront for the Property. The City could take the Property back subject to any liens or encumbrances and the right of Oakland T12 to recapture its purchase and other development costs out of a future sale of the Property. According to Oakland T12, they have invested approximately \$40 million for the purchase and development of the Property thus far. The City would be able to recover its transaction costs from the sales proceeds.

While the option to take back the Property would give the City control over the development of the Property, there are several risks and challenges to this approach:

- The legal process involved in seeking a legal remedy to a developer default will be costly and time-consuming and would delay development of the Property.
- If the City were to attempt to recover the Property, there is a possibility that a Court would require the City to pay Oakland T12's acquisition price upfront even if the DDA does not require immediate payment. The City has not budgeted any funding to repurchase the Property.
- If the City were to sue for damages, the damages might be difficult, if not impossible, to ascertain and ultimately may not be recoverable.
- If the City recovers the land from Oakland T12, it would be responsible for maintaining the excavated Property at its sole expense until a sale. The City would also forego its share of annual property tax revenues currently paid by Shorenstein of approximately \$17,500.
- It is not certain whether it would be financially feasible for another developer other than Oakland T12 to deliver an office building on the site. Oakland T12's substantial prior investment in the Project, including complete construction drawings and the fact that the steel for the proposed high-rise has been stored since 2008 in a warehouse in New Mexico, allows them to resume construction quickly. Another office developer would incur higher costs during predevelopment and construction based on a new project and escalating construction costs.
- The City could also pursue a residential development on the site, but given the absence of new office building construction in downtown Oakland over the last 15 years, it is in the City's best interest to work with Oakland T12 and pursue development of a new office tower on the Property.

FISCAL IMPACT

The terms of the proposed 14th DDA Amendment require an extension fee of \$500,000, with an additional payment of \$250,000 for each of the two 12-month options to extend the Initial Resumption Date. The fee of \$500,000 and payments of \$250,000 for any 12-month extension options, if any, shall be deposited into the General Purpose Fund (1010), Project

Implementation Org (85221), Other Fees: Miscellaneous (45419), Non-Project (0000000), Downtown Redevelopment (SC13).

The annual payments of \$50,000 as compensation to the City for staff administration of the DDA until completion of Project construction shall be deposited to the Central District Project Fund (5610), Project Implementation Org (85221), Other Fees: Miscellaneous (45419), Non-Project (0000000), Downtown Redevelopment (SC13).

The Project, once completed, will generate approximately \$1 million in property taxes for the City in the first year of operation.

PUBLIC OUTREACH / INTEREST

No public outreach or coordination is required for this legislation other than the posting of the staff report on the City's website.

COORDINATION

The following City departments were consulted during the preparation of this report:

- Office of the City Attorney
- Controller's Bureau
- Planning and Building Department

SUSTAINABLE OPPORTUNITIES

Economic: There are no economic sustainable opportunities associated with the proposed assignment. However, if the Project proceeds, Oakland T12 is required to make a good faith effort to comply with the City's local business and employment participation requirements during project development. In addition, the new office building will add significant numbers of construction (300) and permanent jobs (2,750) to Oakland's economy. The businesses that would occupy the office space will further expand the economic and employment base in the City.

Environmental: There are no environmental sustainable opportunities associated with the proposed legislation. However, the Project is designed to achieve Leadership in Energy & Environmental Design (LEED) certification.

Social Equity: There are no sustainable opportunities related to social equity associated with the proposed legislation. However, if the Project moves forward, a significant new office building will be added to Oakland's Central Business District that will transform an abandoned construction site into an economically viable use. Moreover, the Project will be subject to the City's Jobs/Housing Impact Fee. As currently proposed, the Project would result in a jobs/housing impact fee of \$3.1 million to be deposited in the City's Affordable Housing Trust Fund.

CEQA

On April 6, 2000, the Oakland Planning Commission certified the 2000 City Center Environmental Impact Report (the "2000 EIR"). Five addenda to the 2000 City Center EIR were completed to consider modifications to the Project. The 2000 City Center EIR and its five addenda directly apply to the T12 Project and provide the basis for use of a 6th EIR addendum to assess the current proposed Project.

Separate and independently, qualified planning level documents, specifically program level EIRs, that can be used as a basis to provide additional CEQA clearance of the proposed Project (all or in part) under specific CEQA provisions include Oakland's 1998 General Plan Land Use and Transportation Element EIR, and the 2011 Central District Urban Renewal Plan Amendments EIR (or "Redevelopment Plan Amendments EIR").

A detailed CEQA Analysis document entitled "T12 Project CEQA Analysis (Addendum #6)" dated March 18, 2016 ("2016 CEQA Analysis") was prepared for the Project and approved by the Planning Commission on April 6, 2016 by adoption of CEQA Findings (see **Attachment B**).

The 2016 CEQA Analysis constitutes an Addendum to the 2000 City Center EIR pursuant to Public Resources Code section 21166 (CEQA Guidelines §15162), and the Addendum determined that no changes have occurred in the circumstances under which the proposed Project would be implemented, and that no new information has emerged that would materially change the analyses or conclusions set forth in the 2000 EIR, and that the Proposed Project would not result in any new significant environmental impacts, result in any substantial increases in the significance of previously identified effects, or necessitate implementation of additional or considerably different mitigation measures than those identified in the 2000 EIR, nor render any mitigation measures or alternatives found not to be feasible, feasible, and therefore no additional environmental analysis beyond the 2000 City Center EIR and the 2016 CEQA analysis is necessary.

The City Council finds and determines, after separate and independent review and consideration of (1) the 2016 CEQA Analysis to the previously certified 2000 City Center EIR, (2) the previously certified 1998 Land Use Transportation Element EIR, and (3) the previously certified 2011 Redevelopment Plan Amendments EIR, that the proposed 14th DDA Amendment is exempt from any additional CEQA Analysis under the "Community Plan Exemption" of Public Resources Code section 21083.3 (CEQA Guidelines §15183) and/or the "Qualified Infill Exemption" under Public Resources section 21094.5 (CEQA Guidelines §15183.3) and/or the "Redevelopment Projects" under Public Resources Code section 21090 (CEQA Guidelines §15180) and affirms and adopts the CEQA findings adopted by the Planning Commission (See *Attachment B*).

The 2016 CEQA Analysis document is available to the public at 250 Frank Ogawa Plaza, Suite 3315, Oakland CA 94612 during normal business hours and at:

<http://www2.oaklandnet.com/Government/o/PBN/OurServices/Application/DOWD009157>.

Item: _____
CED Committee
September 13, 2016

ACTION REQUESTED OF THE CITY COUNCIL

Staff Requests That The Following Action Be Taken By The City Council

A City Ordinance (A) Authorizing a 14th Amendment to the City Center Disposition and Development Agreement Between the City Of Oakland and Oakland T12 LLC for Development of Property Located At 601 12th Street to Extend Performance Dates and to Establish and Accept Extension and Administrative Fees, And (B) Separately and Independently Relying on (1) the "T12 Project California Environmental Quality Act ("CEQA") Analysis (Addendum #6)" Dated March 2016 To The Previously Certified 2000 City Center Environmental Impact Report, (2) the Previously Certified 1998 Land Use Transportation Element Environmental Impact Report and (3) the Previously Certified 2011 Redevelopment Plan Amendments Environmental Impact Report per CEQA Guidelines Sections 15164, 15183, 15183.3, and 15168 and 15180.

For questions regarding this report, please contact Jens Hillmer, Office of Economic and Workforce Development at (510) 238-3317.

Respectfully submitted,



Mark Sawicki
Director, Office of Economic and
Workforce Development

Reviewed by:
Patrick Lane, Redevelopment Manager
Project Implementation Division

Prepared by:
Jens Hillmer, Urban Economic Coordinator
Project Implementation Division

Attachments:

- A - Business Term Sheet
- B - CEQA Findings

ATTACHMENT A

Business Terms 14th DDA Amendment

DDA Terms	13th Amendment
Deadline to Resume Construction	Initial Resumption Date: 18 months after execution of the 14 th Amendment. Second Resumption Date: 12 months after the Initial Resumption Date Third Resumption Date: 12 months after the end of the
Payments to City	Initial Resumption Date: \$500,000 Second Resumption Date: \$250,000 Third Resumption Date: \$250,000
Payments to City for DDA Administration Costs	Five (5) business days following the execution of the Amendment, and on each successive anniversary through Substantial Completion, Oakland T12 will pay to the City an amount equal to \$50,000 as compensation to the City for additional staff oversight during the construction period.

Attachment B

California Environmental Quality Act Findings

T12 Project

CEQA FINDINGS

I. Introduction These findings are made pursuant to the California Environmental Quality Act (Public Resources Code section 21000 et seq.; “CEQA”) and the CEQA Guidelines (Cal. Code Regs. title 14, section 15000 et seq.; “CEQA Guidelines”) by the City Planning Commission in connection with the environmental analysis of the effects of implementation of the T12 Project, as more fully described elsewhere in this Staff Report and City Of Oakland (“City”)-prepared CEQA Analysis document entitled “T12 Project CEQA Analysis (Addendum #6)” dated March 2016 (“CEQA Analysis”) (the “Project”). The City is the lead agency for purposes of compliance with the requirements of CEQA. These CEQA findings are attached and incorporated by reference into each and every decision associated with approval of the Project and are based on substantial evidence in the entire administrative record.

II. Applicability/Adoption of Previous CEQA Documents

Certification of 2000 City Center EIR: The City finds and determines that the Oakland Planning Commission certified the 2000 City Center EIR on April 26, 2000. Five addenda to the 2000 City Center EIR were completed to consider modifications. The 2000 City Center EIR and its five addenda directly apply to the T12 Project.

Adoption of General Plan Land Use and Transportation Element (LUTE) and Certification of 1998 LUTE EIR: The City finds and determines that (a) the Oakland City Council on March 24, 1998 adopted Resolution No. 74129 C.M.S. which adopted the General Plan Land Use and Transportation Element, made appropriate CEQA findings, including certification of the 1998 LUTE Environmental Impact Report (“EIR”); and (b) the LUTE satisfies the description of “Community Plan” set out in Public Resources Code section 21083.3(e) and in CEQA Guidelines section 15183 as well the description of “Planning Level Document” set out in Public Resources Code section 21094.5 and in CEQA Guidelines section 15183.3. The City Council, in adopting the LUTE following a public hearing, approved applicable mitigation measures which are largely the same as those identified in the other Program EIRs prepared after the 1998 LUTE EIR, either as mitigation measures or as a part of newer Standard Conditions of Approval (“SCAs”) which constitute uniformly applied development policies or standards (together with other City development regulations) and determined that the mitigation measures set out in the 1998 LUTE EIR, would substantially mitigate the impacts of the LUTE and future projects thereunder. While approved after certification of the 1998 LUTE EIR, growth and potential effects of the development of City Center in downtown Oakland would have been considered in the cumulative growth projections factored into the LUTE EIR analysis.

Adoption of the Central District Urban Renewal Plan and Amendments thereto and Certification of the Central District Urban Renewal Plan Amendments EIR (or “Redevelopment Plan Amendments EIR”): The City finds and determines that (a) the Oakland City Council on June 12, 1969 adopted Resolution No. 7987 which adopted the Central District Urban Renewal Plan for the Project Area; and (b) the Oakland City Council on March 20, 2012, adopted Resolution No. 83767 which adopted amendments to the Urban Renewal Plan and made appropriate CEQA findings including certification of the Central District Urban Renewal Plan Amendments EIR; and (c) the Redevelopment Plan Amendments EIR satisfies the designation of a “Program EIR” under CEQA guidelines Section 15180, as such subsequent activities are subject to requirements under CEQA Section 15168. The City Council, in adopting the Central District Urban Renewal Plan Amendments following a public hearing, approved applicable mitigation measures and standard conditions of approval and determined that the uniformly applicable

development policies or standards, together with the mitigation measures set out in the Redevelopment Plan Amendments EIR would substantially mitigate the impacts of the Central District Urban Renewal Plan Amendments and future projects thereunder.

III. CEQA Analysis Document: The CEQA Analysis and all of its findings, determinations and information is hereby incorporated by reference as if fully set forth herein. The CEQA Analysis concluded that the Project satisfies each of the following CEQA provisions, qualifying the Project for two separate CEQA statutory exemptions and that the CEQA Analysis constitutes an addendum to the 2000 City Center EIR and satisfies the requirements for Redevelopment Projects, as summarized below and provides substantial evidence to support the following findings.

The City hereby finds that as set forth below and in the checklist attached as part of the CEQA Analysis, the Project is exempt from any additional CEQA Analysis under the "Community Plan Exemption" of Public Resources Code section 21083.3 (CEQA Guidelines §15183) and/or the "Qualified Infill Exemption" under Public Resources section 21094.5 (CEQA Guidelines §15183.3) and/or the "Redevelopment Projects" under Public Resources Code section 21090 (CEQA Guidelines §15180) and that the CEQA Analysis also constitutes an Addendum to the 2000 City Center EIR pursuant to Public Resources Code section 21166 (CEQA Guidelines §15162) and that such Addendum determines that none of the three events requiring subsequent or supplemental environmental analysis as stipulated in Public Resources Code section 21166 have occurred, thus no additional environmental analysis beyond the 2000 City Center EIR and the CEQA Analysis is necessary. The specific statutory exemptions and the status of the CEQA Analysis as an Addendum are discussed below in more detail.

A. Community Plan Exemption; Public Resources Code Section 21083.3 (CEQA Guidelines §15183): The City finds and determines that, for the reasons set out below and in the CEQA Analysis, the Community Plan Exemption applies to the Project. Therefore, no further environmental analysis is required because all of the Project's effects on the environment were adequately analyzed and mitigation measures provided in the 1998 LUTE EIR for the overall project; there are no significant effects on the environment which are peculiar to the Project or to the parcel upon which it is located not addressed and mitigated in the Previous CEQA Documents; and there is no new information showing that any of the effects shall be more significant than described in the 1998 LUTE EIR.

As set out in detail in Attachment C to the CEQA Analysis, the City finds that, pursuant to CEQA Guidelines section 15183 and Public Resources Code section 21083.3, the Project is consistent with the development density and that there are no environmental effects of the Project peculiar to the Project or the Project Site which were not analyzed as significant effects in the 1998 LUTE EIR; nor are there potentially significant off-site impacts and cumulative impacts not discussed in the 1998 LUTE EIR; nor are any of the previously identified significant effects which, as a result of substantial information not known at the time of certification of the 1998 LUTE EIR, are now determined to present a more severe adverse impact than discussed in the 1998 LUTE EIR. As such, no further analysis of the environmental effects of the Project is required.

B. Qualified Infill Exemption; Public Resources Code Section 21094.5 (CEQA Guidelines §15183.3): The City finds and determines that, for the reasons set forth below and in the CEQA Analysis, a Qualified Infill Exemption applies to the Project and no further environmental analysis is required since all of the Project's effects on the environment were adequately analyzed and mitigation measures provided in the 1998 LUTE EIR; the Project will cause no new specific effects not addressed in the 1998 LUTE EIR that are specific to the Project or the Project Site; and there is no substantial new

information showing that the adverse environmental effects of the Project are more significant than described in the 1998 LUTE EIR.

The City finds that, pursuant to CEQA Guidelines section 15183.3, the CEQA Analysis contains in Attachment D a written analysis consistent with Appendix M to the CEQA Guidelines examining whether the Project will cause any effects that require additional review under CEQA. The contents of Attachment D documents that the Project is located in an urban area satisfying the requirements of CEQA Guidelines section 15183.3 and satisfies the applicable performance standards set forth in Appendix M to the CEQA Guidelines. It also explains how the effects of the Project were analyzed in the Previous CEQA Documents; and indicates that the Project incorporates all applicable mitigation measures and SCAs from the Previous CEQA Documents. Attachment D also determines that the Project will cause no new specific effects not analyzed in the Previous CEQA Documents; determines that there is no substantial new information showing that the adverse environmental effects of the Project are more significant than described in the Previous CEQA Documents; and determines that the Project will not cause new specific effects or more significant effects, and documents how uniformly applicable development policies or standards (including, without limitation, the SCAs) will mitigate environmental effects of the Project. Based upon the CEQA Analysis and other substantial evidence in the record, the City finds and determines that no further environmental analysis of the effects of the Project is required.

C. CEQA Analysis Constitutes an Addendum; Public Resources Code Section 21166 (CEQA Guidelines §15162 and §15164): The City finds and determines that the CEQA Analysis constitutes an Addendum to the 2000 City Center EIR and that no additional environmental analysis of the Project beyond that contained in the 2000 City Center EIR is necessary. The City further finds that no substantial changes are proposed in the Project that would require major revisions to the 2000 City Center EIR because of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; no substantial changes occur with respect to the circumstances under which the Project will be undertaken which will require major revisions of the 2000 City Center EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and there is no new information of substantial importance not known and which could not have been known with the exercise of reasonable diligence as of the time of certification of the 2000 City Center EIR showing that the Project will have one or more significant effects not discussed in the 2000 City Center EIR; significant effects previously examined will be substantially more severe than shown in the 2000 City Center EIR, mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the Project; or mitigation measures or alternatives which are considerably different from those analyzed in the 2000 City Center EIR would substantially reduce one or more significant effects on the environment.

Based on these findings and determinations, the City further finds that no Subsequent or Supplemental EIR or additional environmental analysis shall be required because of the Project. The City has considered the CEQA Analysis along with the 2000 City Center EIR prior to making its decision on the Project and a discussion is set out in the CEQA Analysis explaining the City's decision not to prepare a Subsequent or Supplemental EIR pursuant to Guidelines sections 15162 and/or 15163.

D. Program EIRs and Redevelopment Projects (CEQA Guidelines §15168 and § 15180): The City finds and determines that for the reasons set forth below and in the CEQA Analysis, that the 2011 Redevelopment Plan Amendments EIR applies to the Project and no further environmental

analysis is required since all the Project's effects on the environment were adequately analyzed and mitigation measures provided in the 2011 Redevelopment Plan Amendments EIR; the Project will cause no new specific effects not addressed in the 2011 Redevelopment Plan Amendments EIR that are specific to the Project or the Project Site; and there is no substantial new information showing that the adverse environmental effects of the Project are more significant than described in the 2011 Redevelopment Plan Amendments EIR .

IV. Severability: The City finds that all four CEQA provisions discussed and determined to be applicable in Section III above are separately and independently applicable to the consideration of the Project and should any of the three be determined not to be so applicable, such determinations shall have no effect on the validity of these findings and the approval of the Project on any of the other grounds.

V. Incorporation by Reference of Statement of Overriding Considerations: Each of the previous CEQA documents identified significant and unavoidable impacts: (1) the 2000 City Center EIR identified four areas of environmental effects of the Original Project that presented significant and unavoidable impacts; (2) the 1998 LUTE EIR identified six areas of environmental effects of the LUTE that presented significant and unavoidable impacts; and (3) the Redevelopment Plan Amendments EIR identified three areas of environmental effects of the Redevelopment Plan Amendments that presented significant and unavoidable impacts. Because the Project may contribute to some significant and unavoidable impacts identified above, but a Subsequent and/or Supplemental EIR is not required in accordance with CEQA Guidelines sections 15162-15164, 15183 and 15183.3, a Statement of Overriding Considerations is not legally required. Nevertheless, in the interest of being conservative, the Statements of Overriding Consideration for all the aforementioned previous CEQA documents are hereby incorporated by reference as if fully set forth herein.

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2016 SEP - 1 AM 10: 27

APPROVED AS TO FORM AND LEGALITY:

BY: Ray M.
DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

A CITY ORDINANCE (A) AUTHORIZING A 14TH AMENDMENT TO THE CITY CENTER DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF OAKLAND AND OAKLAND T12 LLC FOR DEVELOPMENT OF PROPERTY LOCATED AT 601 12TH STREET TO EXTEND PERFORMANCE DATES AND TO ESTABLISH AND ACCEPT EXTENSION AND ADMINISTRATIVE FEES, AND (B) SEPARATELY AND INDEPENDENTLY RELYING ON (1) THE "T12 PROJECT CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA") ANALYSIS (ADDENDUM #6)" DATED MARCH 2016 TO (1) THE PREVIOUSLY CERTIFIED 2000 CITY CENTER ENVIRONMENTAL IMPACT REPORT, (2) THE PREVIOUSLY CERTIFIED 1998 LAND USE TRANSPORTATION ELEMENT ENVIRONMENTAL IMPACT REPORT AND (3) THE PREVIOUSLY CERTIFIED 2011 REDEVELOPMENT PLAN AMENDMENTS ENVIRONMENTAL IMPACT REPORT PER CEQA GUIDELINES SECTIONS 15164, 15183, 15183.3, AND 15168 AND 15180

WHEREAS, the Oakland Redevelopment Agency ("Agency"), the City of Oakland ("City") and Grubb & Ellis Development Company entered into a Disposition and Development Agreement dated November 4, 1970, as amended ("DDA") for a twelve-block area of downtown Oakland bounded by Broadway, 11th Street, Martin Luther King, Jr. Way and 14th Street, which is commonly referred to as the City Center Project; and

WHEREAS, on December 7, 2007, pursuant to the terms of the Twelfth Amendment to the DDA, the Agency sold property located at 601 12th Street ("Property") to Oakland T12 LLC ("Oakland T12") for development of an office tower ("T12 Project"); and

WHEREAS, Oakland T12 started T12 Project construction in October of 2008; and

WHEREAS, in December of 2008, Oakland T12 suspended construction on the T12 Project because of the national recession, and requested an extension of the date to complete the T12 Project; and

WHEREAS, in February 2011, pursuant to Agency Resolution No. 2010-0106 C.M.S. and City Ordinance No. 13037 C.M.S., the Agency, the City and Oakland T12 executed a Thirteenth Amendment to the DDA extending development completion deadlines for the T12 Project from April 2012 to April 2015, with two additional extension options of 12 months each; and

WHEREAS, after dissolution of the Agency in February of 2012, the Oakland Redevelopment Successor Agency ("ORSA") was established as the successor to the Agency and assumed all rights and responsibilities of the Agency under the DDA; and

WHEREAS, Oakland T12 did not exercise its option to extend the development completion deadline for the T12 Project past the initial deadline of April 2015; and

WHEREAS, in April 2015, Oakland T12 informed the City and ORSA that it was evaluating resuming construction of the T12 Project given the current momentum in the regional office market; and

WHEREAS, Oakland T12 requested a 14th Amendment to the DDA to establish new T12 Project start and completion dates and to provide for certain extension and administrative fees to be paid to the City; and

WHEREAS, on October 20, 2015, ORSA, pursuant to Resolution No. 2015-007 and the City, pursuant to Resolution No. 85842 C.M.S., approved the assignment and assumption of the DDA from ORSA to the City; and

WHEREAS, on March 14, 2016, the Oakland Oversight Board ("OB"), pursuant to Resolution No. 2016-02, approved ORSA's assignment of the DDA to the City, which assignment was approved by the California Department of Finance on June 30, 2016; and

WHEREAS, the City desires to amend the DDA per the request of Oakland T12 to facilitate development of the T12 Project on the Property; now therefore

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

SECTION 1. The City Council hereby authorizes the City Administrator or designee, to negotiate and execute a 14th Amendment to the City Center DDA ("14th Amendment") that will (1) require that Project construction resume within eighteen (18) months following execution of the 14th Amendment (the "Initial Resumption Date"), conditioned on Oakland T12 making a payment of \$500,000 ("Initial Extension Payment") to the City, (2) grant Oakland T12 two additional options to extend the Initial Resumption Date by twelve (12) months each for payments of \$250,000 for each 12-month extension ("Optional Extension Payments"), (3) extend the deadline for substantial completion of the Project to the date that is thirty months following the date the Oakland T12 resumes construction of the Project, and (4) require Oakland T12 to make annual payments to the City in the amount of \$50,000 as compensation for staff

costs related to the administration of the DDA until the completion of Project construction ("Administrative Cost Payments").

SECTION 2. The Initial Extension Payment and Optional Extension Payments, if any, shall be deposited into the General Purpose Fund (1010), Project Implementation Org. (85221), Other Fees: Miscellaneous (45419), Non-Project (0000000), Downtown Redevelopment (SC13).

SECTION 3. The Administrative Cost Payments shall be deposited to the Central District Project Fund (5610), Project Implementation Org (85221), Other Fees: Miscellaneous (45419), Non-Project (0000000), Downtown Redevelopment (SC13).

SECTION 4. The City finds and determines, after separate and independent review and consideration of (1) the "T12 Project California Environmental Quality Act ("CEQA") Analysis (Addendum #6)" dated March 18, 2016 to the previously certified 2000 City Center EIR and its 5 addenda, (2) the previously certified 1998 Land Use Transportation Element EIR, and (3) the previously certified 2011 Redevelopment Plan Amendments EIR, as supported by substantial evidence in the record and for the reasons set forth in the CEQA Findings adopted by the Planning Commission on April 6, 2016 in connection with its consideration of a Final Development Plan for the Project, that the proposed 14th DDA Amendment is exempt from any additional CEQA analysis under the "Community Plan Exemption" of Public Resources Code section 21083.3 (CEQA Guidelines §15183) and/or the "Qualified Infill Exemption" under Public Resources section 21094.5 (CEQA Guidelines §15183.3) and/or the "Redevelopment Projects" under Public Resources Code section 21090 (CEQA Guidelines §15180), and that the 2016 CEQA Analysis also constitutes an Addendum to the 2000 City Center EIR pursuant to Public Resources Code section 21166 (CEQA Guidelines §15162 and §15164) and that such Addendum determines that none of the three events requiring subsequent or supplemental environmental analysis as stipulated in Public Resources Code section 21166 have occurred, thus no additional environmental analysis beyond the 2000 City Center EIR and the 2016 CEQA Analysis is necessary.

SECTION 5. The City Administrator or her designee is authorized to negotiate and execute the 14th Amendment and take whatever action is necessary with respect to the Project and the 14th Amendment consistent with this Ordinance and its basic purposes.

SECTION 6. The 14th Amendment authorized hereunder shall be reviewed and approved as to form and legality by the City Attorney's Office prior to execution by the City and filed with the City Clerk.

SECTION 7. The City Administrator or designee is hereby authorized to file a Notice of Determination and a Notice of Exemption with the Office of the Alameda County Recorder and the State Office of Planning and Research, and to take any other action necessary in furtherance of the Project, consistent with this Ordinance and its basic purposes.

SECTION 8. The record before this Council relating to this Ordinance includes, without limitation, the following:

- A. All staff reports, decision letters and other documentation and information produced by or on behalf of the City, including without limitation the Planning Commission Report and all notices relating to this Ordinance and the DDA;
- B. All oral and written evidence received by City staff and the City Council before and during the consideration of this Ordinance, including without limitation the Planning Commission consideration of general plan conformity; and
- C. All matters of common knowledge and all official enactments and acts of the City, such as (1) the General Plan; (2) the Oakland Municipal Code, including without limitation, the Oakland real estate regulations; (3) the Oakland Planning Code; (4) other applicable City policies and regulations; and (5) all applicable state and federal laws, rules and regulations.

SECTION 9. The custodians and locations of the documents or other materials which constitute the record of proceedings upon with the City Council's decision is based are respectively (a) the Project Implementation Division, 250 Frank Ogawa Plaza, 5th Floor, Oakland, CA; (b) Planning and Building Department, 250 Frank Ogawa Plaza, 3rd, Floor, Oakland, CA; and (c) the Office of the City Clerk, 1 Frank Ogawa Plaza, 1st Floor, Oakland, CA.

SECTION 10. The recitals contained in this Ordinance are true and correct and are an integral part of the Council's decision.

SECTION 11. This Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2016

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN,
REID AND PRESIDENT GIBSON McELHANEY

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the Council,
City of Oakland

A CITY ORDINANCE (A) AUTHORIZING A 14TH AMENDMENT TO THE CITY CENTER DISPOSITION AND DEVELOPMENT AGREEMENT BETWEEN THE CITY OF OAKLAND AND OAKLAND T12 LLC FOR DEVELOPMENT OF PROPERTY LOCATED AT 601 12TH STREET TO EXTEND PERFORMANCE DATES AND TO ESTABLISH AND ACCEPT EXTENSION AND ADMINISTRATIVE FEES, AND (B) SEPARATELY AND INDEPENDENTLY RELYING ON (1) THE "T12 PROJECT CALIFORNIA ENVIRONMENTAL QUALITY ACT ("CEQA") ANALYSIS (ADDENDUM #6)" DATED MARCH 2016 TO (1) THE PREVIOUSLY CERTIFIED 2000 CITY CENTER ENVIRONMENTAL IMPACT REPORT, (2) THE PREVIOUSLY CERTIFIED 1998 LAND USE TRANSPORTATION ELEMENT ENVIRONMENTAL IMPACT REPORT AND (3) THE PREVIOUSLY CERTIFIED 2011 REDEVELOPMENT PLAN AMENDMENTS ENVIRONMENTAL IMPACT REPORT PER CEQA GUIDELINES SECTIONS 15164, 15183, 15183.3, AND 15168 AND 15180

NOTICE AND DIGEST

This Ordinance authorizes an amendment to the City Center Disposition and Development Agreement between the City of Oakland and Oakland T12 LLC for development of property located at 610 12th Street to (1) require that Project construction resume within eighteen (18) months following execution of the 14th Amendment (the "Initial Resumption Date"), conditioned on Oakland T12 making a payment of \$500,000 to the City, (2) grant Oakland T12 two additional options to extend the Initial Resumption Date by twelve (12) months each for payments of \$250,000 for each 12-month extension, (3) extend the deadline for substantial completion of the Project to the date that is thirty months following the date the Oakland T12 resumes construction of the Project, and (4) require Oakland T12 to make annual payments to the City in the amount of \$50,000 as compensation for staff costs related to the administration of the DDA until the completion of Project construction.