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APPROVED AS TO FORM AND LEGALITY

Hlee

Deputy City Attorney

OAKLAND CITY COUNCIL

RESOLUTION NO. 78009 C.M.S.

A RESOLUTION CERTIFYING AND MAKING FINDINGS AS TO THE FINAL ENVIRONMENTAL IMPACT REPORT ON THE CENTRAL CITY EAST REDEVELOPMENT PROJECT, ADOPTING MITIGATION MEASURES AND MITIGATION MONITORING AND REPORTING PROGRAM

WHEREAS, an Environmental Impact Report (the "EIR") on the Redevelopment Plan (the "Redevelopment Plan") for the Central City East Redevelopment Project (the "Project") was prepared by the City pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq., hereinafter "CEQA"), the Guidelines for Implementation of the California Environmental Quality Act (14 Cal. Code Regs. Section 15000 et seq., hereinafter the "State CEQA Guidelines"), and the City's Environmental Review Regulations adopted pursuant thereto; and

WHEREAS, copies of the Draft EIR were distributed to the State Clearinghouse and to those public agencies which have jurisdiction by law with respect to the Project and to other interested persons and agencies, and the comments of such persons and agencies were sought; and

WHEREAS, the Draft EIR was thereafter revised and supplemented to adopt changes suggested and to incorporate comments received and the City's response to said comments, and as so revised and supplemented, a Final EIR was prepared and submitted to the City Council for review and consideration in conjunction with consideration of approval and adoption of the Redevelopment Plan; and

WHEREAS, the Planning Commission has certified and made findings as to the Final EIR; and

WHEREAS, a joint public hearing was held by the Redevelopment Agency of the City of Oakland (the "Agency") and the Council on June 17, 2003, on the Redevelopment Plan and the Final EIR relating thereto, following notice duly and regularly given as required by law, and all interested persons expressing a desire to comment thereon or object thereto having been heard, and said Final EIR and all comments and responses thereto having been considered; and

WHEREAS, the Final EIR consists of the Draft EIR, as revised and supplemented, made a part of the Agency's Report to Council on the Redevelopment Plan, incorporating all comments received and the responses of the Agency and the City thereto as of the date hereof; and

WHEREAS, the Council desires to supersede certain mitigation measures contained in its resolution of June 17, 2003 in response to comments submitted at the public hearing on this matter; now, therefore, be it

RESOLVED: That the City hereby certifies that the Final EIR for the Central City East Redevelopment Plan has been completed in compliance with CEQA, the State CEQA Guidelines and the City's Environmental Review Regulations; and be it further

RESOLVED: That the City hereby finds that the Final EIR reflects the independent judgment of the City, as required by Public Resources Code Section 21082.1; and be it further

RESOLVED: That the City Council has independently reviewed and analyzed the Final EIR and considered the information contained therein and all comments, written and oral, received at the public hearing on the Final EIR prior to approving this resolution and acting on the proposed Project; and be it further

RESOLVED: That the City hereby adopts the CEQA Findings attached as Attachment A and the Statement of Overriding Considerations attached as Attachment B, which are incorporated herein by reference; and be it further

RESOLVED: That the City hereby adopts each of the mitigation measures recommended in the Final EIR, as they have been modified by the Council's action at the public meetings on this matter; and incorporates such measures into the project to be implemented as conditions of project approval; and be it further

RESOLVED: That the City hereby adopts the attached findings, statement of overriding considerations and the mitigation monitoring and reporting program, contained in the Final EIR and incorporated by reference herein; and be it further

RESOLVED: That upon approval and adoption of the Redevelopment Plan by the City Council, the City Clerk is hereby directed to file a Notice of Determination with the County Clerk of Alameda County and the Office of Planning and Research pursuant to the provisions of Section 15094 of the State CEQA Guidelines.

IN COUNCIL, OAKLAND, CALIFORNIA ~~JUL 29 2003~~, 2003


PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, NADEL, QUAN, REID, WAN, and PRESIDENT DE LA FUENTE - 8

NOES- 0

ABSENT- 0

ABSTENTION 0

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

ATTACHMENT A**CENTRAL CITY EAST REDEVELOPMENT PLAN
CEQA FINDINGS**

The City Council of the City of Oakland finds and determines as follows:

- The Central City East Redevelopment Project and its potential environmental effects have been the subject of an Environmental Impact Report ("EIR"). The Draft EIR was prepared by the City of Oakland which, as the Lead Agency, analyzed the environmental effects of the proposed project. The Draft EIR was appropriately circulated for public review and comment for a 45-day period from February 7, 2003 to March 24, 2003.
- The Final EIR was independently reviewed and analyzed by the City Council, and reflects the independent judgment of the City Council. Such judgment is based on substantial evidence in the record (even though there may be differences between and among different sources of information and opinions offered in the documents, testimony, public comments and such responses that make up the Final EIR and the administrative record as a whole). The Council recognizes that, while the Final EIR contains certain additions, modifications, clarifications or revisions to the Draft EIR as a result of public comments and agency response to those comments, such additions, modifications, clarifications or revisions do not represent significant new information requiring re-circulation of the document. Such information and data do not include any new significant environmental impacts that would result from the Plan or from a new mitigation measure and they do not reflect any substantial increase in the severity of environmental impact associated with the Plan; nor do they propose any additional feasible plan alternative or mitigation measures considerably different from other previously analyzed that would lessen the significant environmental impacts of the Plan.
- The City Council adopts the Final EIR and its findings and conclusions as its source of environmental information. The Final EIR is legally adequate and was completed in compliance with CEQA.
- The Final EIR identifies all potential significant adverse impacts and feasible mitigation measures that would reduce these impacts to a less-than-significant level. The EIR recommended mitigation measures that, if implemented as conditions of Project approval, would reduce most identified significant effects to less-than-significant levels. Where appropriate, the EIR also recommended mitigation measures that would reduce less than significant impacts. All of the EIR mitigations are included as part of the Project, as stated in the Oakland City Council ordinance and the Redevelopment Agency

resolution approving and adopting the "Redevelopment Plan for the Central City East Redevelopment Project." All of the mitigation measures identified in the Draft and Final EIR will be used as found to be appropriate as a baseline of information and analysis to apply as specific redevelopment projects are reviewed and considered.

- Two adverse significant unavoidable impacts (cultural and historic resources and transportation) were identified that could not be mitigated to a less-than-significant level.
- A reasonable range of project alternatives was identified in the EIR. Each alternative was rejected as infeasible when compared to the proposed project. Specifically, the City Council rejects the following alternatives as infeasible:
 - **The No Project Alternative:** The "No Project" Alternative was rejected as infeasible because it would not fulfill the objectives of the Central City East Redevelopment Project. In particular, the funding mechanisms for the activities, programs and projects would not be available. Therefore, the elimination of blight, assistance with housing projects, assistance in revitalizing the local economy and commercial areas would not happen or not happen as quickly.
 - **Reduced Project/No Residential Development Assistance Alternative:** This alternative was rejected as infeasible because it would not likely provide sufficient financial or programmatic assistance to improve the commercial areas along the major commercial corridors within the Project Area, thus resulting in not being able to fulfill the project objectives of strengthening retail and other commercial areas, of eliminating blight within commercial areas and of being able to stimulate new investment through physical improvements to infrastructure such as street improvements, sidewalk improvements and landscaping.
 - **Parks and Recreation Focus Alternative:** This alternative was rejected as infeasible because the funding for a wide array of recreational, open space and park projects has been funded through the passage of Measure DD (Oakland Clean Water, Safe Waterfront Parks and Recreation Trust Fund Bond Measure – November, 2002.) Redevelopment Agency funding is not required to implement these major improvements.

ATTACHMENT B**CENTRAL CITY EAST REDEVELOPMENT PLAN
STATEMENT OF OVERRIDING CONSIDERATIONS**

Pursuant to Section 21081 of CEQA, the City Council finds that specific overriding economic, legal, social, technological or other benefits of the Plan outweigh two potential significant and unavoidable adverse effects (Impact 11.4 – Cultural and Historic Resources and 5.2 – Cumulative Traffic Impacts.) The City Council hereby finds that these significant and unavoidable impacts are acceptable in light of the important benefits noted below. Each of the benefits set forth herein separately and independently outweigh the two identified significant unavoidable impacts.

1. **Revitalization and Redevelopment of Underutilized Parcels.** A primary goal of the Central City East Redevelopment Plan is to stimulate in-fill development and land assembly opportunities on obsolete, underutilized and vacant properties in the Project Area. Furthermore, the Plan will give the Agency and City an important tool to improve existing underutilized properties into attractive and economically viable uses. Thus, the proposed Plan advances the goals, objectives and policies of the Oakland General Plan as indicated previously in this report and elsewhere in the administrative record.
2. **Job Creation.** Another primary goal of the Central City East Redevelopment Plan is to attract new business and retain existing businesses in the Project Area that would provide job training and employment opportunities to residents. In addition, additional goals of the Plan are to revitalize commercial corridors throughout the Project Area and strengthen local retail centers thereby creating additional retail jobs in the area.
3. **Additional Housing Units.** Goals of the Central City East Redevelopment Plan include stimulating homeownership opportunities in the Project Area, upgrading existing housing stock, and increasing the City's supply of low- and moderate-income housing. A result of the Plan will be a mix of housing types and ownership structures, which will offer homeownership and new rental opportunities to a variety of existing and potential Oakland residents. Furthermore, the Plan supports the City's General Plan policies to increase the number of housing opportunities in Oakland; the Plan will serve to stimulate affordable housing construction through the use of tax increment funds, thereby increasing the supply in the area.
4. **Revenue Generation.** The Central City East Redevelopment Plan will generate revenues, in the form of increased property taxes, and utility taxes collected from development-related fee projects within the Project Area. In addition, the Plan will contribute to the revitalization of the surrounding community by contributing

to an increase in the general population level and greater pedestrian activity, thereby creating the potential for secondary economic benefits (e.g. increased sales tax) to the surrounding businesses in and near the Project Area.

5. **Retail Shopping.** The Central City East Redevelopment Plan will enhance existing and create new community retail shopping opportunities for consumer goods. In particular, the Plan will help strengthen commercial activities along major arterial streets in the Project Area that will equate to increased sales and revenues as well as the opportunity to provide improved services and infrastructure within the Project Area.
6. **Further General Plan Goals.** The Central City East Redevelopment Plan will help fulfill General Plan policies and objectives by replacing vacant infill sites with appropriate uses, achieving aesthetic benefits for a revitalized community, providing new employment and retail shopping facilities, and encouraging housing opportunities associated with mass transit facilities. Implementation of the Plan will help further the Land Use and Transportation Element (LUTE) of the General Plan and the Historic Preservation Element (HPE) and facilitate the goals and purposes of the California Community Redevelopment Law in conformance with the General Plan.
7. **Improvements for Cumulative Traffic Impacts.** Although the additional incremental traffic resulting from development under the Plan (and consistent with the allowable growth permitted under the General Plan) will result in unacceptable levels of congestion at the High Street/International Boulevard intersection, there will be funding mechanisms available through the Plan to make improvements in the area to alleviate congestion. These improvements will mitigate the cumulative congestion to some degree, but not to a less than significant level.
8. **Separate Environmental Review Required Prior to Demolition or Alteration of 9th Avenue Terminal Building.** Mitigation Measure 11.4 for the mitigation of the potential demolition or alteration of the 9th Avenue Terminal Building has been modified to include the requirement for a separate environmental review prior to demolition or substantial alteration, consistent with Estuary Policy Plan OAK 2.4. This additional task, while not decreasing the impact to less than significant, provides a means to further consider appropriate alternatives and other mitigation measures as more specific proposals about the 9th Avenue Terminal Building and the Oak – 9th Area move forward.

ATTACHMENT C

Modification to Mitigation Measures 11.1A, 11.1B and 11.1C:

The above-referenced mitigation measures recommended in the EIR are hereby amended as follows (redlined to show changes from Draft EIR):

- Mitigation Measure 11.A: Avoidance. In the event that implementation of the Redevelopment Plan's programs, projects or other activities may involve new development in the vicinity of a known archaeological resource, the site potentially affected shall be examined by a qualified archaeologist to determine if there are resources that could be adversely affected by the proposed activity. This investigation shall occur prior to any to any ground disturbing activities that could adversely affect the resource. This investigation shall include a determination of whether the resource is "unique," as defined in Public Resources Code § 21083.2. Consistent with CEQA, in accordance with CEQA, such resources shall be avoided to the extent feasible. ~~all cultural resources deemed significant should be avoided during project implementation whenever possible.~~
- Mitigation Measure 11.1B: Characterization and Research. To the extent if avoidance is not feasible, additional feasible mitigation ~~shall~~will be required to reduce impacts to a less than significant level. The standards and requirements contained in Public Resources Code § 21083.2 shall be implemented to determine the method for reducing such impacts to a less than significant level. ~~for potential impacts to be considered less than significant.~~ Should subsequent Redevelopment Plan projects, programs or other activities be proposed at archaeological properties, mitigation consisting of subsurface archaeological characterization ~~shall~~ould be conducted to define the subsurface extent and integrity of the site. Additional archival research ~~shall~~may also be conducted as a means of corroborating the archaeological data collected. This additional data-gathering phase at each site may be sufficient, on an individual basis, to consider loss of the resource during development as a less-than-significant impact.
- Mitigation Measures 11.1C: Data Recovery. Some sites may prove to be inherently complex or significant so that testing alone will not be considered adequate mitigation to permit loss. In those cases, data recovery ~~shall be conducted~~ may be warranted, wherein a more comprehensive subsurface examination, based on a Research Design formulated to address pertinent research topics, ~~may~~shall be required.