

# REDEVELOPMENT AGENCY AND THE CITY OF OAKLAND

## AGENDA REPORT

TO: Office of the City/Agency Administrator  
ATTN: Deanna J. Santana  
FROM: Community and Economic Development Agency  
DATE: September 13, 2011

RE: **A Joint Public Hearing of the City Council and the Redevelopment Agency on Proposed Amendments to the Central District Urban Renewal Plan to (1) Extend the Time Limits on Plan Effectiveness and the Receipt of Tax Increment Revenues by Eleven Years, (2) Increase the Cap on Tax Increment Revenues, (3) Extend the Time Limit for Use of Eminent Domain and Restrict Eminent Domain to Nonresidential Properties, (4) Amend Affordable Housing Provisions, and (5) Make other Required Changes**

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### SUMMARY

Staff of the Community and Economic Development Agency is presenting for a joint City and Redevelopment Agency public hearing a proposed 17<sup>th</sup> amendment (the “17<sup>th</sup> Amendment”) and 18<sup>th</sup> amendment (the “18<sup>th</sup> Amendment”) to the Central District Urban Renewal Plan (the “Redevelopment Plan”) to extend certain time and fiscal limits for the Central District Redevelopment Project Area (the “Central District” or the “Project Area”), and to update certain affordable housing provisions. However, due to uncertainties regarding the authority of the Agency to adopt redevelopment plan amendments, in view of recent legislation suspending redevelopment activities and the limited stay of parts of that legislation by the California Supreme Court, staff is asking that Council and the Agency refrain at this time from taking action on any of the proposed amendments. Staff will return to Council at a later date following resolution of the lawsuit for adoption of the legislation (or its alternative as discussed more specifically below) needed to enact the proposed amendments.

The proposed amendments will provide the Redevelopment Agency with additional financial and legal resources needed to address remaining blighting conditions and promote economic development in the Project Area, and to further the City’s and Agency’s goals to increase the community’s supply of affordable housing. The proposed amendments will:

- Extend the time limit for Redevelopment Plan effectiveness by eleven years, from June 12, 2012 to June 12, 2023;
- Extend the time limit for tax increment collection by eleven years, from June 12, 2022 to June 12, 2033;
- Increase the limit on the amount of tax increment revenue that the Agency may claim from the Project Area from the current limit of \$1.3 billion to a new limit of \$3.0 billion;
- Extend the time limit for eminent domain authority for the remaining life of the Redevelopment Plan, but restrict eminent domain to nonresidential properties;

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- Update affordable housing provisions to conform to the requirements of California Redevelopment Law (CRL) in connection with the time extension amendments, including applying the affordable housing area production obligation to the entire Project Area and increasing the set-aside of tax increment funds to the Agency’s Low and Moderate Income Housing Fund (the “Affordable Housing Fund”) from 25 percent to 30 percent; and
- Make other required changes pursuant to the requirements of the CRL.

In order for the Agency to adopt the proposed amendments, the CRL requires among other things that the Agency find and document that significant blight remains within the Project Area, and that this blight cannot be eliminated without the extension of time and fiscal limits to the Redevelopment Plan. The Agency must also describe the proposed methods of financing for existing and new projects and programs in the Project Area, and demonstrate the financial feasibility of the redevelopment program as extended. A Report to Council including this information is attached to this report as *Attachment A*.

## **FISCAL IMPACT**

### **Proposed Amendments**

The proposed amendments to the Redevelopment Plan will extend the Agency’s collection of tax increment by eleven years, from Fiscal Year (FY) 2021-22 to FY 2032-33 (and FY 2047/48 for the 2001 Amendment Area). This extension will continue to reduce the City’s portion of property taxes from the Project Area that reverts to the General Fund for this period. The estimated loss to the City of Oakland’s General Fund in property tax revenue from FY 2017-18 (which is the fiscal year after which the current tax increment limit of \$1.3 billion for the Project Area will be reached) to FY 2047-48 is \$380.4 million (which is calculated by subtracting the mandatory cumulative pass-through amount of \$80.5 million due to the City until FY 2047-48, if the proposed legislation is adopted, from the cumulative amount of \$460.9 million in tax increment that would be received by City if the legislation is not enacted). However, over the life of the proposed extensions of the Redevelopment Plan’s time limits on plan effectiveness and the receipt of tax increment revenues beginning in FY 2010-11 and ending in FY 2047-48, the Agency is projected to receive about \$1.3 billion in additional net tax increment revenue in nominal (not adjusted for inflation) dollars for new redevelopment activities in the Central District, which is significantly more money than the City would receive from its share of property taxes generated in the Project Area if the proposed amendments to the Redevelopment Plan were not adopted.

### **Reasons for Proposed Amendments**

One of the main purposes of the proposed amendments is to provide the Agency with the necessary financial resources to complete the goals of the Redevelopment Plan for the Project Area. Without the amendments, the Agency will have insufficient time and financial capacity to complete the redevelopment activities needed to eliminate blight in the Project Area.

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In FY 2010-11, the Central District generated approximately \$52.4 million in gross tax increment revenues, of which approximately \$13.1 million were allocated toward the production of affordable housing. Without the proposed amendments, the Redevelopment Plan's time limit on tax increment receipts will expire on June 12, 2022. Extending the time limit on tax increment receipts will provide the Agency with eleven more years of additional tax increment revenue. Pursuant to the current Redevelopment Plan, the Agency may only collect up to \$1.3 billion of total tax increment in the Project Area. The Agency proposes to increase this limit on the amount of tax increment revenue it can receive to an amount of up to \$3.0 billion.

Since 1969, the Agency has received cumulative tax increment revenues of approximately \$841.1 million through FY 2009-10 in the Project Area, leaving approximately \$508.9 million to be collected under the existing limit of \$1.3 billion, which is projected to be reached in FY 2017-18. Approximately \$304.9 million of the remaining amount under the current tax increment cap is committed to existing bond debt and property tax rebates, leaving only \$204.0 million for additional redevelopment projects and activities, and related administrative costs.

Over the life of the proposed Redevelopment Plan amendments beginning in FY 2010-11 and ending in FY 2047-48, the Agency is projected to receive about \$2.0 billion in additional gross tax increment revenue in nominal dollars. After deductions of existing debt service (\$304.9 million), pass-through payments to other taxing entities (\$315.5 million), and all other Agency obligations (including projected administrative costs of approximately \$181.0 million), the total tax increment revenue that would be available to the Agency for all housing and non-housing redevelopment activities is \$601.5 million and \$598.6, respectively for a total of \$1.2 billion in nominal dollars, or \$575.0 million in constant FY 2010-11 dollars. It is anticipated that the Agency will use these tax increment revenues to leverage about \$4.1 billion (nominal dollars) from other sources such as private investment, and state and federal funding sources. These funds should be sufficient to complete the Agency's redevelopment program (including the Agency's affordable housing program), which is projected to require approximately \$5.3 billion in nominal dollars. Increasing the tax increment limit from \$1.3 billion by \$1.7 billion for a total of \$3.0 billion is therefore necessary for the Agency's ability to incur debt and encumber sufficient tax increment revenue from the Project Area to fund the redevelopment program and eliminate blight.

#### **Use of Funds If Proposed Amendments Are Adopted**

During the proposed plan extension period, the Agency will continue to reimburse City expenditures for staffing and general operations of the Agency, and cover additional City staff costs and funding for capital improvements to infrastructure and public facilities in the Project Area. The Agency will also use significant funds to 1) implement the Broadway Retail Strategy and other small retail projects under the Façade and Tenant Improvement Programs to increase sales tax revenue for the City; and 2) develop in partnership with the private sector other commercial real estate projects to increase property values, tax increment pass-throughs from the Agency to the City, and business taxes. Conservative estimates of sales tax increases generated by these continued redevelopment activities would be in excess of \$2.0 million per year.

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*Additional Payments*

Adoption of the proposed amendments will also require an allocation of additional tax increment revenues to the Low and Moderate Income Housing Fund to raise the current contribution from 25% to 30% of all tax increment revenue generated in the Project Area beginning in FY 2012-13. This will have several fiscal impacts to the Agency. In FY 2012-13, the Central District's net operating budget will have a deficit of approximately \$2.1 million due to this increase of \$2.6 million in the set-aside for the Low and Moderate Income Housing Fund. Furthermore, in FY 2011-12 the Agency will use the remaining fund balance of the Central District for the purchase of the Henry J. Kaiser Convention Center from the City, and therefore have no operating reserves to make up the shortfall in the abovementioned operating budget in FY 2012-13. Moreover, if the Agency is required to make the payments to the state that are required for the continuation of the Agency under AB1X 27, there will be no fund balance remaining in the Central District to finance the first large payment required in FY 2011-12, or the smaller continuing annual payments starting in FY 2012-13.

If the lawsuit by the California Redevelopment Agency and the League of California Cities is not successful, and the Project Area is required to pay its share of these annual payments, which would be approximately \$2.9 million in FY 2012-13, the Central District operating budget would have a negative balance of approximately \$5.0 million. It is not anticipated that tax increment revenues in the Project Area will increase sufficiently over the next couple of years to cover these projected shortfalls. The Agency would likely have to pursue a combination of selling its real estate assets in the Central District, decreasing or eliminating its programs and projects, and significantly reducing its current operating costs. It is assumed that the initial \$39.4 million payment to the state in FY 2011-12 will not come from the Central District, since there is no tax increment or taxable bond funds available in the Central District that could be used for this payment.

**Loss of Funds if Proposed Amendments Are Not Adopted**

If the proposed amendments to the Redevelopment Plan are not adopted, the Project Area will only be able to apply any tax increment proceeds to payments for debt service and other existing financial obligations, such as property tax increment reimbursements, beginning in FY 2012-13 and ending in FY 2021-22. Any Agency funding for the redevelopment activities briefly outlined above and more specifically described in the Report to Council will be eliminated and reimbursements to the City for the cost of Agency operations will be reduced to a minimum.

The projected increase in the City's share of property taxes from 4.4% to 30.2% that would occur if the proposed legislation is not adopted will not begin until FY 2022-23, after expiration of the Agency's time limit on collecting tax increment to pay debt. As a result, the City would need to reduce or cut most of the approximately 41.5 Full Time Employees that are funded from the Central District in the Community and Economic Development Agency, and a portion of the general administrative departments (Mayor, City Council, Administrator, City Attorney, City Clerk, Finance, etc.), Police (five officers), and Public Works Agency starting next year in the mid-cycle of the FY 2011-13 budget as the Agency would no longer be permitted to cover most of these expenses. Lastly, the City would lose approximately \$477.7 million in Low and

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Moderate-Income Housing Funds for the development of affordable housing if the plan amendments are not approved.

## **BACKGROUND**

### **The Central District Project Area**

The Central District consists of three geographical components originally adopted between 1969 and 2001. The Project Area covers approximately 250 city blocks (828 acres) in an area generally bounded by I-980, Lake Merritt, 27th Street and the Embarcadero. On June 12, 1969, the City Council adopted the Redevelopment Plan for the Project Area. The City amended the Redevelopment Plan in August 1982, to add territory near the southwestern edge of Lake Merritt and adjacent to the Original Area (the “1982 Area”). At the time of the 1982 plan amendment, the 1982 Area consisted solely of land and buildings that were publicly owned or dedicated to public use. In July of 2001, the City amended the Redevelopment Plan to add territory west of the Interstate 880 (the “2001 Area”). The 2001 Area contained a mixture of industrial, commercial and residential uses.

On December 16, 1986, the City Council adopted Ordinance No. 10822 C.M.S., which among other things, set the limit on the number of tax increment revenues that may be divided among taxing entities and allocated to the Agency pursuant to the Redevelopment Plan at \$1,348,862,000. The Redevelopment Plan also sets a limit on the number of dollars that may be divided and allocated to the Agency from areas added to the Central District between 1979 and 2001 at \$75,000,000.

On July 24, 2001, the City Council adopted Ordinance No. 12348 C.M.S., which among other things, established a time limit on the Agency’s eminent domain authority in the Central District at June 12, 2009, for territory included in the Central District prior to June 1, 2001, and for 12 years after adoption of the plan extension amendment for the 2001 Area.

On December 21, 2004, the City Council adopted Ordinance No. 12641 C.M.S., which amended the Redevelopment Plan to extend the time limit on the effectiveness of the Redevelopment Plan for the Project Area to June 12, 2012, and extended the time limit on the Agency’s ability to pay indebtedness and receive tax increment revenues as to the Project Area to June 12, 2022. Since its adoption, the Redevelopment Plan has been amended 16 times.

### **Extension of Time Limits on Plan Effectiveness and Receipt of Tax Increment**

#### *The 17<sup>th</sup> Amendment*

Under legislation adopted in 2001 (SB 211), the CRL authorizes redevelopment agencies with redevelopment plans that were adopted on or before December 31, 1993, to extend the time limit on effectiveness of the Plan by an additional ten years. In addition, an Agency may extend the time limit on the payment of indebtedness and receipt of property taxes by an additional ten years from the termination of its redevelopment plan. The redevelopment plan may be amended after the Agency finds, based on substantial evidence, that both of the following conditions exist:

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(1) significant blight remains within the project area; and (2) this blight cannot be eliminated without extending the effectiveness of the plan and receipt of property taxes.

*The 18<sup>th</sup> Amendment*

Under the CRL, redevelopment agencies that make required payments to the Supplemental Educational Revenue Augmentation Fund (“SERAF”) in FY 2009-10 and FY 2010-11 are entitled to a one-year extension of their time limits. The Agency has made its mandated \$41.1 million SERAF contribution for FY 2009-10 and its \$8.5 million contribution for FY 2010-11, and is therefore eligible for these additional time extensions.

Table 1 summarizes the existing and proposed time and fiscal limits for the original Project Area, the 1982 Area and the 2001 Area pursuant to the proposed 17<sup>th</sup> and 18<sup>th</sup> Amendments.

**Table 1**

	<b>Central District</b>	<b>Central District (1982 Area)</b>	<b>Central District (2001 Area)</b>
<b>Background Information</b>			
Date Adopted	June 12, 1969	August 3, 1982	July 24, 2001
Base Year	FY 1968/69	FY 1982/83	FY 2001/02
Base Year Assessed Value	\$275,241,000	\$0	\$15,780,702
<b>Existing Time Limits</b>			
Plan Effectiveness	June 12, 2012	June 12, 2012	July 24, 2032
Tax Increment Receipt	June 12, 2022	June 12, 2022	July 27, 2047
Eminent Domain	June 12, 2009	June 12, 2009	July 24, 2013
Incurring Debt	Eliminated	Eliminated	July 24, 2021
<b>Proposed Time Limits</b>			
Plan Effectiveness	June 12, 2023	June 12, 2023	July 24, 2033
Tax Increment Receipt	June 12, 2033	June 12, 2033	July 24, 2048
Eminent Domain	June 12, 2022	June 12, 2022	June 12, 2022
Incurring Debt	No Change	No Change	No Change
<b>Existing Fiscal Limits</b>			
Combined Tax Increment Cap		\$1,348,862,000	
1982 Tax increment Cap	N/A	\$75,000,000	N/A
Incurring Debt	N/A	\$100,000,000	N/A
<b>Proposed Fiscal Limits</b>			
Tax Increment Cap		\$3,000,000,000	
Incurring Debt	No Change	\$100,000,000	No Change

**Increase to the Tax Increment Limit**

The CRL requires that when an agency proposes to increase the limitation on the amount of tax increment to be allocated to the redevelopment agency, it must document the remaining blight within the Project Area, identify those portions of the Project Area, if any, that are no longer

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blighted, describe the projects that are required to be completed to eradicate the remaining blight, and describe the relationship between the costs of those projects and the amount of increase in the limitation on the number of tax increment dollars to be allocated to the agency. The ordinance adopting the amendment must contain findings that both: (1) significant blight remains within the project area; and (2) the blight cannot be eliminated without the establishment of additional debt and the increase in the limitation on the number of dollars to be allocated to the redevelopment agency.

### **Extension of Eminent Domain Authority**

The CRL also requires that a redevelopment plan which includes eminent domain authority include a time limit, not exceeding 12 years from the adoption of the redevelopment plan, for commencement of eminent domain proceedings. When an agency proposes to extend its eminent domain authority, it must prove the existence of significant remaining blight in the Project Area, and the nexus between this authority and eliminating blight.

### **Overview of the Redevelopment Plan Amendment Process**

The proposed 17<sup>th</sup> Amendment is subject to an adoption process that parallels the adoption of a new redevelopment plan with a number of additional requirements. The CRL requires that an agency first prepare a Preliminary Report. The Preliminary Report was delivered to affected taxing entities, as well as to the California Department of Finance (DOF) and the Department of Housing and Community Development (HCD), on March 29, 2011. The CRL also requires that the Agency receive a letter from HCD confirming that it did not accumulate excess surplus in the Affordable Housing Fund. The Agency received the letter from HCD on June 22, 2011.

The adoption of the 17<sup>th</sup> Amendment requires California Environmental Quality Act (CEQA) compliance. A programmatic Environmental Impact Report (EIR) was prepared for the 17<sup>th</sup> and 18<sup>th</sup> Amendment. On July 6, the Planning Commission certified the Final EIR and recommended that the City Council approve the proposed amendments.

The CRL requires that the agency consult with affected taxing entities. The Agency contacted affected taxing entities from April to June of 2011, and met with representatives of these entities on June 10, 2011. The CRL also requires that the agency consult with residents, community organizations and the Project Area Committee (PAC), if one exists, prior to submitting the plan amendment to the legislative body. The Agency made the Preliminary Report available on the Agency's website, and Agency staff conducted a community informational session on April 27, 2011. Staff also made a presentation to the Chinatown Chamber of Commerce on June 14, 2011. No PAC exists for the Central District.

In order for the Agency to adopt the proposed 17th Amendment, the CRL requires that the Agency prepare and distribute a Report to Council to provide comprehensive information, analyses and evidence the City Council must consider when determining whether to approve the proposed amendment. In December 2010, the Agency hired Seifel Consulting, Inc. ("Seifel") to conduct a blight study and to prepare the Report to Council. The attached Report to Council presents: (1) the reasons for considering the 17th Amendment; (2) documentation and mapping

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of those portions of the Central District that include significant remaining blight, as well as those portions of the Central District that are no longer blighted, and those portions that contain necessary and essential parcels for the elimination of remaining blight; (3) a description of the proposed activities (projects and programs) within the Project Area, how those projects and programs will improve blight conditions, and the reasons why the projects and programs cannot be completed without the time extensions; (4) the proposed method of financing the Agency's redevelopment program; (5) an amendment to the Central District's five-year Implementation Plan; (6) a "Neighborhood Impact Report" summarizing potential impacts resulting from the 17<sup>th</sup> Amendment and how the impacts will be addressed; (7) the report and recommendations of the Planning Commission; (8) the EIR; (9) a summary of consultations with residents and community organizations; (10) a summary of consultations with affected taxing entities; and (11) a description of the bonds sold by the Agency. The Report to Council must be sent to the DOF, HCD, taxing entities, and individuals and organizations that have commented on the Preliminary Report no later than 45 days prior to the public hearing. The Report to Council was distributed during the week of July 18<sup>th</sup>.

Lastly, the City Council and the Agency, according to specific noticing requirements, must hold a joint public hearing on the 17<sup>th</sup> Amendment, and the City Council must make the required findings and adopt an ordinance (with two readings) amending the Redevelopment Plan (see attached draft ordinance and related legislation). Should written objections to the amendment be submitted prior to the hearing, the Council must adopt a resolution responding to such objections.

Adoption of the 18<sup>th</sup> Amendment is not subject to this process, and only requires an ordinance (see attached draft ordinance).

## **KEY ISSUES AND IMPACTS**

### **Necessity for the Plan Amendments**

The current time and fiscal limits for the Project Area restrict the Agency's ability to issue new debt, finance on-going programs, and effectively alleviate blighting conditions. The proposed extensions of the tax increment time and fiscal limits, the plan effectiveness limit and the eminent domain authority time limit would provide the Agency with additional financial and legal resources, which are needed to fund the Agency's efforts to eliminate blight and constraints to development in the Project Area, as well as facilitate the production of affordable housing.

#### *Extension of the Plan Time Limit*

Under the existing time limit for plan effectiveness for the Project Area (other than the 2001 Area), the Agency must cease all redevelopment activities within the Project Area by June 12, 2012. Given the severe downturn of the economy over the last four years, the Agency has not been able to move forward on its redevelopment program as anticipated. As a result, the existing time limit significantly restricts the Agency's ability to continue alleviating the blighting conditions that remain in the Central District. The additional eleven years as planned under the



proposed amendments will provide needed time for the Agency to implement existing and new infrastructure improvement programs throughout the Project Area.

*Extension of Tax Increment Collection Limit*

Chapter IV of the Report to Council shows the general financial feasibility of the redevelopment program. As discussed in Chapter IV, the cost to alleviate documented blighting conditions substantially exceeds available funding from public and private sources. Tax increment financing is the only source available to the community to fill the substantial gap between the costs of the redevelopment program and other public and private revenue sources. Because these projects and activities are critical to the revitalization of the Project Area, tax increment financing is needed to assist in funding these projects.

To continue the Agency's efforts in alleviating blighting conditions, the Agency is proposing to increase the tax increment collection limit for the Project Area from its current limit of \$1.3 billion to a new limit of \$3.0 billion. Without this, the Agency will have insufficient financial capacity to fund the redevelopment activities needed to eliminate blight in the Project Area. The Agency has received cumulative tax increment of approximately \$841.1 million through FY 2009-10, leaving \$508.9 million to be collected before expiration of the time limit on June 12, 2022. Approximately \$304.9 million of the remaining amount under the tax increment collection cap is committed to existing bonded debt and other obligations, leaving only \$204.0 million for additional redevelopment projects and activities and related administrative costs. The Agency's cost for the redevelopment program is over \$1.2 billion in nominal dollars, as shown on Table IV-1 in Chapter IV of the Report to Council. Therefore, the tax increment collection limit needs to be increased to \$3.0 billion in order for the Agency to continue its efforts to alleviate blighting conditions. Increasing the tax increment collection limit is also necessary for the Agency to be able to incur debt and encumber sufficient tax increment revenue from the Project Area to fund the redevelopment program.

*Extension of Tax Increment Collection Time Limit*

To enable the Agency to support the redevelopment program, the amendments will extend the tax increment collection time limit by eleven years. As discussed in Chapter III of the Report to Council, the Agency's cost for the redevelopment program is over \$1.2 billion. In order for the Agency to complete the redevelopment program, it would need to extend its time limit for tax increment receipt to collect sufficient tax increment revenues to complete the redevelopment program. Without extending the time limit for tax increment collection, the existing \$1.3 billion tax increment collection limit would likely be reached in FY 2017-18, prior to the existing time limit for tax increment collection in FY 2021-22. Therefore, additional time beyond the existing tax increment collection time limit is needed in order to continue alleviating blighting conditions.

*Extension of Eminent Domain Authority*

The Agency proposes to reinstate eminent domain authority in the Project Area with the limitation that eminent domain authority would not be authorized to acquire residential property. Eminent domain would be established for the remaining effective life of the Plan.

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Eminent domain has been, and will continue to be, a necessary and effective tool for alleviating remaining blight on non-residential properties in the Project Area. In some cases it is the only way to overcome significant barriers to private investment, and without this tool the government would be unable to effectuate redevelopment. Through eminent domain, the Agency can assemble appropriate sites and prepare them for redevelopment. Site assembly by the Agency may be the only way to create parcels large enough for catalyst mixed-use projects or new affordable housing developments. Private sector investment can be hindered in areas where different property owners own adjacent smaller lots and/or buildings. Development or redevelopment of these sites can be prohibitively expensive given the costs of construction, market conditions in the Project Area, and other site constraints. Larger sites would allow developers to design for the market and to capitalize on locational strengths such as proximity to major transportation access points.

Eminent domain can also be necessary in cases of unsafe or unhealthy buildings and crime hotspots. In some cases, the owners of properties that contain unsafe or unhealthy buildings, or are locations of regular criminal activity may be absentee, unresponsive, or otherwise unwilling to cooperate with the Agency in its efforts to alleviate these blighting conditions through other redevelopment tools such as financial assistance. In these situations, the Agency's ability to purchase properties through eminent domain may be the only way to address the most extreme and persistent blighting conditions.

In the past, eminent domain has been an effective tool to facilitate redevelopment activities in the Project Area. The most recent and most successful use of eminent domain authority resulted in the development of the Uptown Apartments, which has served as a catalyst for rejuvenation of the Uptown commercial district. The only other instances of the Agency's use of eminent domain in the Project Area include the condemnation of the Bermuda building formerly located at 2101 Franklin, which was subsequently demolished and replaced with Center 21, a mixed-use office building, and several buildings for the development of Market Square project, a mixed-income housing development.

### **Remaining Blight in the Project Area**

Since 1969, there have been many significant redevelopment successes in the Central District. These include redevelopment of City Center, the Uptown Area, Old Oakland, Preservation Park selected locations around Jack London Square and Chinatown. However, the remaining physical and economic blighting conditions in the Project Area are significant and cannot reasonably be reversed without continued redevelopment assistance. The documentation of the physical and economic blighting conditions in the Project Area included in Chapter II, and the extensive photographic record contained in Appendix C of the Report to Council demonstrates that significant blight is still prevalent.

### **Proposed Projects and Programs**

The Agency's redevelopment program is a comprehensive set of projects and programs designed to alleviate remaining blight in the Project Area, promote economic development throughout the community and encourage infill development that will promote the economic vitality of the

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Central District and create housing opportunities for residents at all income levels. The redevelopment program, which is described in greater detail in Chapter III of the Report to Council, applies to all of the existing Project Area, except for those parcels that are no longer blighted (as depicted in Figure II-1 in the Chapter II of Report to Council), and includes eight primary components: (1) Property Acquisition, Site Preparation and Disposition; (2) Planning, (3) Commercial Attraction, Expansion and Retention, (4) Commercial Rehabilitation; (5) Public Improvements; (6) Circulation, Street Improvements and Streetscapes; and (7) Cultural Arts and Recreational Facilities Improvements; and (8) Affordable Housing. The total estimated cost of the redevelopment program is approximately \$5.3 billion in nominal dollars. The estimated cost of the non-housing redevelopment program is approximately \$3.2 billion. The projected cost of the affordable housing redevelopment program is approximately \$2.1 billion. Table III-1 in the Report to Council describes the net costs of all programs and projects. With the exception of affordable housing for which there is a percentage expenditure defined by CRL (30% for the Project Area), the Agency will allocate the necessary funds for each program as needed over the life of the Project Area. A significant amount of the additional funds will go to encouraging tax generating activities for the benefit of the City, particularly retail under the Broadway Retail Strategy and the Façade and Tenant Improvement Programs.

### **Proposed Method of Financing and Feasibility**

A determination of economic feasibility of the Agency's Redevelopment Plan requires an identification of the future resources to finance costs associated with redevelopment of the Project Area and the elimination of blighting conditions. It is projected that with the proposed amendments, the Project Area will generate \$598.6 million in net non-housing tax increment after required payments to taxing agencies, debt service and other costs, and \$601.5 million in required housing set-aside deposits, for total of \$1.2 billion. This amount represents the Agency's contribution of net tax increment toward the implementation of the Redevelopment Program, which totals approximately \$5.3 billion. The tax increment projected to be available is based on assessed value added from anticipated new development in these areas and projected growth in existing property values at rates experienced in the Project Area in the past. A detailed description of the public and private financing aspects of the Redevelopment Program is included in Chapter IV of the Report to Council. Table IV-1 in the Report to Council provides a summary of the Agency's costs for the redevelopment program in nominal dollars. Chapter IV of the Report to Council further describes the non-tax increment funding sources that are likely to be available to finance a portion of the redevelopment program costs. From these descriptions it is clear that the tax increment revenue made possible through the proposed 17<sup>th</sup> and 18<sup>th</sup> Amendments will be an essential financing component needed to fund the Agency's share of the costs of the redevelopment program.

### **Affordable Housing**

Adoption of the 17<sup>th</sup> Amendment will result in a legal requirement to set-aside a minimum of 30% of tax increment for affordable housing beginning in FY 2012-13. This will increase the annual revenue by \$2.6 million immediately and extend the revenue by 11 years for a total of \$477.7 million in additional funds. Furthermore, adoption of the 17<sup>th</sup> Amendment will trigger the CRL affordable housing area production requirements for the Central District, which requires

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among other things that 15% of all housing units developed in the Central District during each 10-year compliance period be affordable to low and very low income households. Previously, the Central District, as a project area adopted prior to 1976, was exempt from the CRL area production requirements.

### **Public Hearing**

In view of legal uncertainties raised by pending legal challenges to two California redevelopment agency overhaul statutes enacted in late June (ABX1 26 and 27), on August 11, 2011, staff has decided to hold the public hearing on schedule, but delay the passage of the legislation until final resolution by the California Supreme Court of the pending legal challenges to AB1X 26 and 27. Under AB1X 26, redevelopment agencies are suspended from taking certain actions, including adopting redevelopment plan amendments and making findings concerning blight. Under AB1X 27, however, agencies that have adopted continuation ordinances (agreeing to make certain payments) are exempt from the suspension. Oakland has adopted such an ordinance. The Supreme Court did not stay the effectiveness of the suspension provisions of AB1X 26, but did stay most of AB1X 27, including the authority to adopt continuation ordinances. The Court's stay order is unclear though whether agencies that previously adopted continuation ordinances are still subject to the suspension. (CRA has requested clarification from the Court whether agencies that have adopted are subject to suspension; however, as of the writing of this report, the Court has not responded to this request.) In view of the uncertainty as to whether the Agency has the authority to adopt redevelopment plan amendments or blight findings during this period, staff believes it is prudent for Council to defer adopting any of the proposed legislation at this time. However, since the Agency has completed all legally required steps in the adoption process for the proposed amendments, including publication and extensive mailings of the public notice for the joint public hearing, staff is recommending that Council and the Agency hold the joint public hearing as scheduled. Staff will return to the City Council for adoption of the proposed legislation (or its alternative) without the benefit of an additional public hearing, as soon as the Supreme Court has reached a final decision on the legality of ABX1 26 and 27.

### **CEQA Review**

CEQA law provides that all public and private undertakings pursuant to a redevelopment plan shall constitute a single project, and a programmatic EIR will be appropriate for purposes of the redevelopment plan adoption or amendment process. On July 6, 2011, the Planning Commission held a public hearing and received testimony on the Final EIR on the Proposed Amendments. After closing the public hearing, the Planning Commission adopted the Standard Conditions of Approval and Mitigation Monitoring Reporting Program (SCAMMRP); adopted the CEQA findings for the project, which include certification of the EIR, rejection of alternatives as infeasible, and a Statement of Overriding Considerations; and recommended adoption of the proposed amendments to the City Council.

## **SUSTAINABLE OPPORTUNITIES**

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***Economic:*** If adopted, the proposed amendments would facilitate the redevelopment and rehabilitation of blighted and underutilized residential, commercial and public facilities which will improve the economic stability and health of the commercial districts in the Central District.

***Environmental:*** As part of future redevelopment agreements that would be executed in the Project Areas, staff will include provisions to require developers to make substantial use of such green building techniques as energy-conserving design and appliances, water-conserving fixtures and landscaping, recycled building materials, and low-waste construction techniques.

***Social Equity:*** The adoption of the amendments will result in increased provision of funding for affordable housing in the City of Oakland. In the Central District, the amendments will result in a legal requirement to set-aside 30% of the tax increment generated to be used citywide for affordable housing, and to ensure that 15% of all housing units developed in the Central District during the 10-year compliance period be affordable units.

## **DISABILITY AND SENIOR CITIZEN ACCESS**

All new development projects in the Project Area are required to comply with Federal ADA Accessibility Guidelines and the State of California's Title 24 accessibility regulations.

## **RECOMMENDATIONS AND RATIONALE**

Staff is recommending that Council and the Agency hold a joint public hearing but hold off on adopting the proposed amendments and related legislation until the California Supreme Court has issued its final decision in the pending litigation regarding AB1X 26 and AB1X 27. Staff will bring these items back directly to Council at that time. Without the proposed amendments only a portion of the ongoing redevelopment activities to address remaining blight can be funded under the current time and fiscal limits. By extending the time and fiscal limits, the Agency will be able to continue to improve remaining blighting conditions and complete the Redevelopment Plan. The Agency programs and projects include significant investments in economic development, community enhancements and public improvement projects throughout the Project Area, including support for local businesses and property owners for building rehabilitation and business attraction, site preparation and assembly, public infrastructure and affordable housing activities. In addition, to maintain the Agency's ability to eliminate blight and promote economic growth in the Project Area, the proposed plan amendments would extend the time for the Agency's eminent domain authority in the Project Area. Eminent domain has been, and will continue to be, a necessary and effective tool for alleviating remaining blight on non-residential properties in the Project Area.

### **Alternative Recommendation**

In light of the negative fiscal impact on the Project Area's fund balance that would result from the combination of the legal requirement to set-aside a minimum of 30% of tax increment for

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affordable housing beginning in FY 2012-13 and the potentially required payments to the state for the continuation of the Agency under AB1X 27, staff is currently evaluating an alternative course of action, which would delay the increase of the contribution to the Low and Moderate Income Housing Fund by one year. Under this scenario, the City would (1) move forward this fiscal year only with the one year SERAF extension (not the full 11 years), an increase in the tax increment cap from \$1.3 to \$1.8 billion (not \$3.0 billion), and an extension of the eminent domain time limit only until FY 2012-13, and (2) postpone passage of the ten year SB 211 extension, along with the higher tax increment cap and longer eminent domain limit, until early FY 2012-13.

### **ACTION REQUESTED OF THE AGENCY/CITY COUNCIL**

Staff recommends that the City Council and Agency board hold a joint public hearing regarding the proposed amendments, including the following attached draft legislation:

1. An Agency resolution and a City ordinance approving and adopting the 17<sup>th</sup> Amendment to the Redevelopment Plan to achieve the following:
  - Extend the time limit for plan effectiveness over the Project Area (other than the 2001 Area) for ten years from June 12, 2012 to June 12, 2022;
  - Extend the time limit for tax increment collection from the Project Area (other than the 2001 Area) for ten years from June 12, 2022 to June 12, 2032;
  - Increase the limit on the amount of tax increment revenue that the Agency may claim from the Project Area from the current limit of \$1.3 billion to a new limit of \$3.0 billion;
  - Extend the time limit for eminent domain authority and restrict eminent domain to nonresidential properties for the remaining life of the Plan;
  - Update affordable housing provisions to conform to the requirements of the CRL in connection with the time extension amendments, including extending the affordable housing area production obligation to the entire Project Area, and increasing the set-aside to the Agency's Low and Moderate Income Housing Fund to 30 percent; and
  - Make other required changes pursuant to the requirements of CRL.
2. An Agency resolution and a City ordinance approving and adopting the 18<sup>th</sup> Amendment to the Redevelopment Plan to extend the time limits on plan effectiveness and the receipt of tax increment revenues by an additional year.
3. Agency and City resolutions certifying and making findings as to the final EIR on the proposed amendments, and adopting Mitigation Measures and a Mitigation Monitoring and Reporting Program.

### **Alternative Legislation**

1. An Agency resolution and a City ordinance approving and adopting the 17<sup>th</sup> Amendment to the Redevelopment Plan to achieve the following:

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- Extend the time limit for plan effectiveness over the Project Area (other than the 2001 Area) for one year from June 12, 2012 to June 12, 2013;
- Extend the time limit for eminent domain authority and restrict eminent domain to nonresidential properties for the remaining life of the Plan; and
- Increase the limit on the amount of tax increment revenue that the Agency may claim from the Project Area from the current limit of \$1.3 billion to a new limit of \$1.8 billion.

Staff is recommending that Council not adopt any of the above pieces of legislation at this time. Staff will return to the City Council for approval of the proposed legislation (or its alternative) as soon as the Supreme Court has made its final decision on the legality of ABX1 26 and 27.

Respectfully submitted,

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Community and Economic Development Agency

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Economic Development and Redevelopment

Prepared by:  
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Urban Economic Coordinator

APPROVED AND FORWARDED TO THE  
COMMUNITY AND ECONOMIC DEVELOPMENT  
COMMITTEE:

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Office of the City/Agency Administrator

Attachment A – The Report to Council  
Attachment B -- Proposed plan amendment legislation

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