State of California
DEPARTMENT OF TRANSPORTATION

Business, Transportation and Housing Agency

M e m o r a n d u m

To: CHAIR AND COMMISSIONERS
CALIFORNIA TRANSPORTATION COMMISSION

CTC Meeting: August 22, 2012

Reference No.: 2.1c.(5)
Action Item

From: NORMA ORTEGA
Chief Financial Officer

Prepared by: Ryan Chamberlain
Division Chief
Transportation Planning

Subject: **TRADE CORRIDORS IMPROVEMENT FUND-PROJECT BASELINE AMENDMENT RESOLUTION TCIF-P-1213-01, AMENDING RESOLUTION TCIF-P-0910-05**

RECOMMENDATION:

The California Department of Transportation (Department) recommends the California Transportation Commission (Commission) amend the Trade Corridors Improvement Fund (TCIF) Project Baseline Agreement for Project 3, Outer Harbor Intermodal Terminals (PPNO TC03). The Northern California Trade Corridor Coalition concurs with this amendment and the requested changes.

ISSUE:

The Port of Oakland (Port) proposes to amend the TCIF Project Baseline Agreement for Project 3, Outer Harbor Intermodal Terminals (OHIT) to expand the scope, split the project into six segments, and update the delivery schedule, cost, and funding plan.

BACKGROUND:

The OHIT project was programmed with $110 million of TCIF funds, under the TCIF Program of Projects, adopted by the Commission on April 10, 2008 under Resolution TCIF-P-0708-01. A Project Baseline Agreement executed by the Department, the Commission, and the Port was approved on December 10, 2009 under Resolution TCIF-P-0910-06B. An amendment to the Baseline Agreement was approved on December 10, 2009 under Resolution TCIF-P-0910-05 to revise the scope, schedule, and increase TCIF to $131,889,000. A Program Amendment was approved on March 28, 2012 under Resolution TCIF-1112-27 to increase TCIF to $242,141,000.

The OHIT project is Phase I of the 2012 Master Plan to redevelop the Oakland Army Base. The complete redevelopment, including all phases is expected to take ten years. Many of the Phase I improvements will be located on the City of Oakland's (City) side of the former Oakland Army Base and most of the TCIF matching funds will be derived from development of such City lands. Therefore, the Port is proposing to add the City as a co-signatory to the Baseline Agreement.

To distinguish responsibilities between the two implementing agencies, the Port and City are proposing to divide the project into six segments with corresponding funding plans, permitting, and delivery methods. The following table identifies each segment:

Segment	Title	Implementing Agency
1	Environmental Remediation	Port and City
2	Rail Access Improvements and Manifest Yard	Port
3	City Site Prep Work and Backbone Infrastructure	City
4	Recycling Facilities	City
5	City Trade & Logistics Facilities	City
6	Unit Train Support Rail Yard	Port

The following table provides the current approved and proposed milestone dates for each segment:

Milestone	Current Approved	Proposed Segment 1	Proposed Segment 2	Proposed Segment 3	Proposed Segment 4	Proposed Segment 5	Proposed Segment 6
Begin Environmental	01/01/02	01/01/02	01/01/02	01/01/02	01/01/02	01/01/02	01/01/02
End Environmental	06/30/10	07/31/12	07/31/12	07/31/12	07/31/12	07/31/12	07/31/12
Begin Design	12/15/09	08/01/09	04/11/11	04/11/11	04/11/11	04/11/11	04/11/11
End Design	12/09/10	12/31/09	03/31/13	03/31/13	03/31/13	03/31/13	09/30/13
Begin Right of Way	12/10/10	08/01/09	04/11/11	04/11/11	04/11/11	04/11/11	04/11/11
End Right of Way	11/24/11	12/31/09	03/31/13	03/31/13	03/31/13	03/31/13	03/31/13
Begin Construction	11/25/11	01/01/10	07/31/13	12/31/12	06/30/13	06/30/13	12/31/14
End Construction	07/15/17	10/15/18	07/31/15	10/15/18	07/31/18	12/31/19	12/31/15
Begin Closeout	07/16/17	10/16/18	08/01/15	10/16/18	08/01/18	01/01/20	01/01/16
End Closeout	01/16/18	04/16/19	12/31/15	04/16/19	12/31/18	06/30/20	07/01/16

The Port and City propose to update the funding plan to identify actual funding sources, include the recently approved Transportation Investment Generating Economic Recovery (TIGER) funding, and increase the TCIF based on the Commission's March 2012 Program amendment. The following tables provide the current approved and proposed funding for the overall project and each segment individually:

Overall Funding (DOLLARS IN THOUSANDS)								
FUND SOURCE	**TOTAL**	**Totals by Fiscal Year**			**Totals by Project Phase**			
		Prior	**12/13**	**13/14**	**PA&ED**	**PS&E**	**R/W**	**CONST**
State Funds (TCIF)								
Current Approved	242,141	242,141	0	0				242,141
Change	0	(242,141)	176,341	65,800				0
Proposed	242,141	**0**	**176,341**	**65,800**				242,141
Port of Oakland Partnership Funds								
Current Approved	252,659	252,659			59,547	22,520	6,891	163,701
Change	(252,659)	(252,659)			(59,547)	(22,520)	(6,891)	(163,701)
Proposed	**0**	**0**			**0**	**0**	**0**	**0**
Local Funds (Port Funds)								
Current Approved	0	0	0	0		0		0
Change	15,700	1,425	6,425	7,850		10,000		5,700
Proposed	**15,700**	**1,425**	**6,425**	**7,850**		**10,000**		**5,700**
Local Funds (City Funds)								
Current Approved	0	0	0	0	0	0		0
Change	54,500	16,525	7,325	30,650	8,300	12,700		33,500
Proposed	**54,500**	**16,525**	**7,325**	**30,650**	**8,300**	**12,700**		**33,500**
Federal Funds (TIGER)								
Current Approved	0			0				0
Change	15,000			15,000				15,000
Proposed	**15,000**			**15,000**				**15,000**
Private Funds								
Current Approved	0	0	0	0		0		0
Change	171,900	1,300	14,000	156,600		17,300		154,600
Proposed	**171,900**	**1,300**	**14,000**	**156,600**		**17,300**		**154,600**
TOTAL								
Current Approved	494,800	494,800	0	0	59,547	22,520	6,891	330,064
Change	4,441	(475,509)	204,091	275,900	(51,247)	17,480	(6,891)	120,877
Proposed	**499,241**	**19,291**	**204,091**	**275,900**	**8,300**	**40,000**	**0**	**450,941**

SEGMENT 1: Environmental Remediation (DOLLARS IN THOUSANDS)								
FUND SOURCE	**TOTAL**	**Totals by Fiscal Year**			**Totals by Project Phase**			
		Prior	**12/13**	**13/14**	**PA&ED**	**PS&E**	**R/W**	**CONST**
Local Funds (Port Funds)								
Current Approved	0	0	0	0				0
Change	5,700	1,425	1,425	2,850				5,700
Proposed	**5,700**	**1,425**	**1,425**	**2,850**				**5,700**
Local Funds (City Funds)								
Current Approved	0	0	0	0				0
Change	5,700	1,425	1,425	2,850				5,700
Proposed	**5,700**	**1,425**	**1,425**	**2,850**				**5,700**
TOTAL								
Current Approved	0	0	0	0				0
Change	11,400	2,850	2,850	5,700				11,400
Proposed	**11,400**	**2,850**	**2,850**	**5,700**				**11,400**

SEGMENT 2: Rail Access Improvements and Manifest Yard (DOLLARS IN THOUSANDS)								
FUND SOURCE	**TOTAL**	**Totals by Fiscal Year**			**Totals by Project Phase**			
		Prior	**12/13**	**13/14**	**PA&ED**	**PS&E**	**R/W**	**CONST**
State Funds (TCIF)								
Current Approved	0			0				0
Change	65,800			65,800				65,800
Proposed	**65,800**			**65,800**				**65,800**
Local Funds (Port Funds)								
Current Approved	0		0	0		0		
Change	5,000		2,500	2,500		5,000		
Proposed	**5,000**		**2,500**	**2,500**		**5,000**		
Local Funds (City Funds)								
Current Approved	0	0	0			0		
Change	3,800	1,000	2,800		100	3,700		
Proposed	**3,800**	**1,000**	**2,800**		**100**	**3,700**		
TOTAL								
Current Approved	0	0	0	0	0	0		0
Change	74,600	1,000	5,800	65,800	100	8,700		65,800
Proposed	**74,600**	**1,000**	**5,800**	**65,800**	**100**	**8,700**		**65,800**

SEGMENT3: City Site Prep Work and Backbone Infrastructure (DOLLARS IN THOUSANDS)								
FUND SOURCE	**TOTAL**	**Totals by Fiscal Year**			**Totals by Project Phase**			
		Prior	**12/13**	**13/14**	**PA&ED**	**PS&E**	**R/W**	**CONST**
State Funds (TCIF)								
Current Approved	0		0					0
Change	176,341		176,341					176,341
Proposed	**176,341**		**176,341**					**176,341**
Local Funds (City Funds)								
Current Approved	0	0	0	0	0	0		0
Change	45,000	14,100	3,100	27,800	4,500	12,700		27,800
Proposed	**45,000**	**14,100**	**3,100**	**27,800**	**4,500**	**12,700**		**27,800**
Local Funds (Private Funds)								
Current Approved	0		0	0		0		0
Change	25,900		13,200	12,700		13,200		12,700
Proposed	**25,900**		**13,200**	**12,700**		**13,200**		**12,700**
TOTAL								
Current Approved	0	0	0	0	0	0		0
Change	247,241	14,100	22,341	210,800	4,500	25,900		216,841
Proposed	**247,241**	**14,100**	**22,341**	**210,800**	**4,500**	**25,900**		**216,841**

SEGMENT 4: Recycling Facilities (DOLLARS IN THOUSANDS)								
FUND SOURCE	**TOTAL**	**Totals by Fiscal Year**			**Totals by Project Phase**			
		Prior	**12/13**	**13/14**	**PA&ED**	**PS&E**	**R/W**	**CONST**
Private Funds								
Current Approved	0	0	0	0		0		0
Change	46,600	300	300	46,000		600		46,000
Proposed	**46,600**	**300**	**300**	**46,000**		**600**		**46,000**
TOTAL								
Current Approved	0	0	0	0		0		0
Change	46,600	300	300	46,000		600		46,000
Proposed	**46,600**	**300**	**300**	**46,000**		**600**		**46,000**

SEGMENT 5: City Trade &Logistics Facilities (DOLLARS IN THOUSANDS)								
FUND SOURCE	**TOTAL**	**Totals by Fiscal Year**			**Totals by Project Phase**			
		Prior	**12/13**	**13/14**	**PA&ED**	**PS&E**	**R/W**	**CONST**
Private Funds								
Current Approved	0	0	0	0		0		0
Change	99,400	1,000	500	97,900		3,500		95,900
Proposed	**99,400**	**1,000**	**500**	**97,900**		**3,500**		**95,900**
TOTAL								
Current Approved	0	0	0	0		0		0
Change	99,400	1,000	500	97,900		3,500		95,900
Proposed	**99,400**	**1,000**	**500**	**97,900**		**3,500**		**95,900**

SEGMENT 6: Unit Train Support Rail Yard (DOLLARS IN THOUSANDS)								
FUND SOURCE	**TOTAL**	**Totals by Fiscal Year**			**Totals by Project Phase**			
		Prior	**12/13**	**13/14**	**PA&ED**	**PS&E**	**R/W**	**CONST**
Local Funds (Port Funds)								
Current Approved	0		0	0		0		
Change	5,000		2,500	2,500		5,000		
Proposed	**5,000**		**2,500**	**2,500**		**5,000**		
Federal Funds (TIGER 2012)								
Current Approved	0			0				0
Change	15,000			15,000				15,000
Proposed	**15,000**			**15,000**				**15,000**
TOTAL								
Current Approved	0		0	0		0		0
Change	20,000		2,500	17,500		5,000		15,000
Proposed	**20,000**		**2,500**	**17,500**		**5,000**		**15,000**

RESOLUTION TCIF-P-1112-01

Be it Resolved, that the California Transportation Commission does hereby amend the Trade Corridors Improvement Fund Baseline Agreement for Project 3, Outer Harbor Intermodal Terminals, in accordance with the changes as described and illustrated.

Attachment

Reference No.: 2.1c.(5)
August 22, 2012
Attachment

Project Description

The Outer Harbor Intermodal Terminals (OHIT) project is of national significance, seeking to transform the former Oakland Army Base into a world-class intermodal trade and logistics center. The Port of Oakland is the only international container trade gateway for the Northern California MegaRegion; it is the leading U.S. export gateway on the West Coast and is the fifth ranked US seaport by containerized cargo movements.

The Port of Oakland is a strategic trade gateway that has seen over a billion dollars in investment over the past decade to support the growing demand for global trade through the nation's limited trade gateways.

This project will be another critical development initiative to open US businesses to international markets through an improved Oakland seaport. The Trade Corridors Improvement Fund (TCIF) will contribute towards the $499.2 million first phase of the Oakland Army Base redevelopment. This represents the build-out of a City owned 165 acre development area and the establishment of a new rail terminal on 40 acres of the Port property. Subsequent phases of the redevelopment will include further expansion of the rail terminal, an additional 1 million square feet of trade and logistics facilities on the Port's land, and the 7th Street grade separation project connecting road, rail and marine networks efficiently within Port. The complete redevelopment, including all phases is expected to take ten years. The project represents a billion dollar investment in goods movement for California.

I. Oakland Army Base

The former Oakland Army Base (OARB), an approximately 430-acre facility located on the West Oakland waterfront, was first commissioned in 1941 as a Port and trans-shipment facility. During World War II, it served as a major cargo Port and warehousing facility. Up until 1995, the Base was active with warehouse uses and approximately 2,040 employees. In 1995, the Base Realignment and Closure Commission recommended closure and realignment/disposal of the Oakland Army Base. The Base was officially closed for military operations in September 1999.

The closure resulted in the loss of more than 7,000 jobs and the dismantling of a national maritime and military asset. Adjacent to the Port of Oakland seaport, this 330-acre former base is at a nexus of maritime, rail and highway transportation. After a decade of strategic planning for the redevelopment of the base and the surrounding lands, the Outer Harbor Intermodal Terminals development is the implementation of a bold vision to revitalize Oakland's working waterfront.

In August 2006, approximately 170 acres of the former Army Base were conveyed to the City of Oakland, and another 200 acres were transferred to the Port. The City of Oakland has assembled a number of private land developers and companies interested in partnering with it to develop the infrastructure necessary for the base redevelopment.

II. Location

The Oakland Army Base site is located along the eastern shoreline of San Francisco Bay in the City of Oakland. The project area is located approximately two miles west of the Oakland central business district. It is located adjacent to several regional transportation links, as well as to the Bay.

III. Master Plan

For the past eight months, the City of Oakland its development partner, California Capital and Investment Group, and the Port of Oakland have worked to develop a master plan for the entire Oakland Army Base described above. The master plan was finalized in February 2012 and will guide the development of the multiple elements of the site throughout the future.

IV. Project Elements

The key components of the OHIT project described in this application are:

- Construction of a new rail terminal
- Rehabilitation of an existing wharf and surrounding lands, creating a new bulk cargo marine terminal
- Construction of new trade and logistics warehousing and port-related facilities
- Relocation and consolidation of Oakland recycling services into a central location with improved access to the Port
- Roadway and utility improvements for the development area, focused along a backbone along Maritime Street and Burma Road
- On-going environmental remediation
- Site preparation--including import, fill, surcharging, and grading—within the City areas designated for the trade and logistics and recycling facilities

The TCIF will be used for the rail, backbone infrastructure, and site preparation required for the container/bulk transfer facilities. Details on the major components are provided in Section VI, Segmentation.

V. Construction Activities

The project is divided into multiple development sequences, ranging from demolition to earthwork to utility and road work to building development. The development generally consists of two types of work. The first is public infrastructure improvements, consisting of road, utility, wharf, rail and site preparation work. Following these improvements, "vertical," or private investments in new buildings and sites will be development for specific users and customers to leverage the strategic public infrastructure improvements.

VI. Project Segmentation

To distinguish responsibilities between the two implementing agencies, the Project has been divided into five separate segments with corresponding funding plans, permitting, and delivery methods.

Description	Total Cost	Port	City	Private	TIGER	TCIF
Remediation	$ 11,400	$ 5,700	$ 5,700	$ -	$ -	$ -
Rail Access Improvements and Manifest Yard	$ 74,600	$ 5,000	$ 3,800	$ -	$ -	$ 65,800
City Site Prep and Backbone Infrastructure	$ 247,241	$ -	$ 45,000	$ 25,900	$ -	$ 176,341
Recycling Facilities	$ 46,600	$ -	$ -	$ 46,600	$ -	$ -

City Trade & Logistics Facilities	$ 99,400	$ -	$ -	$ 99,400	$ -	$ -
Unit Train Support Yard	$ 20,000	$ 5,000	$ -	$ -	$ 15,000	$ -
Total ($ in thousands)	$ 499,241	$ 15,700	$ 54,500	$ 171,900	$ 15,000	$ 242,141

Segment 1: Environmental Remediation

Environmental Remediation. Sites of hazardous material still exist throughout the project area. Prior to the transfer of the Base to the Port and the City, these sites were identified in a Remedial Action Plan (RAP) and a Risk Management Plan (RMP) which requires the Port and City to investigate known and suspected contaminated soil and groundwater locations and clean up as appropriate. The work includes remediation of solvents in the groundwater, and underground storage tank removal, for example. This combined effort by the City and Port is approximately 80% complete and will be ongoing with this project.

Please refer to drawing X-126, attached.

Segment 2: Rail Access Improvements and Manifest Yard

The Rail Terminal development is divided into two segments described in segment 2 and segment 6. In Segment 2 will build new mainline access improvements, new lead tracks from the mainline, through the Oakland Army Base to the Joint Intermodal Terminal, a new 16,000 ft manifest car storage yard, a new administrative building, yard lighting, and security fencing. The mainline access includes new, high speed turnouts tied in to Union Pacific's centralized train control system, with new signals installed for movements to and from the mainline from the Port Rail Terminal. The former Knight Yard on the Oakland Army Base would be replaced with a rail terminal designed to support increased cargo transfer between ships and trains. The manifest tracks will be used as a staging yard to accommodate the existing and new warehouses within the site. The manifest yard has a 200 railcar capacity, supporting up to 20,000 loaded railcars per year. The tracks will all be designed to current UP and BNSF industry standards, and will be capable of accommodating all types of rail cargo.

Please refer to drawing X-127, attached, for a description of the rail improvements.

Segment 3: City Site Prep Work and Backbone Infrastructure

Demolition of Existing Buildings. Old, outdated, non-code conforming buildings still exist throughout the site, including several large warehouses created for the Army in the early days of World War II. These buildings were built before the container industry developed, and are not nearly as effective as modern facilities, however they are still occupied today by opportunistic freight companies. Unfortunately the buildings are deteriorating, settling (due to underlying bay mud), not seismically safe nor designed to meet today's container-based port operations. Elements of the buildings, particularly the massive wood materials, are of value in today's market and will be salvaged for reuse, a sustainable goal of the project. The demolition effort will eliminate underutilized buildings including their hazardous materials.

Earthwork and Soil Stabilization. The project site is currently low in elevation due to years of settlement and an original design elevation that did not contemplate today's drainage and sea rise requirements. For this reason, a large amount of earth import is required to bring the project site up to a new elevation that complies with current regulations and anticipated sea rise. In addition to the import needed to raise the site, more import is needed on a temporary basis to "load" the site (weigh it down) to achieve

condensing of the underlying bay mud before new buildings are constructed. This process, called surcharging, will "pre-settle" the site to thwart long term settlement that damages buildings and site improvements such as utilities. Earth imports will be made primarily by barge taking advantage of marine transportation that is cheaper and less impactive on the environment due to elimination of traditional truck transportation. Before surcharging of the site, there will be a deep dynamic compaction process to cure the underlying sand layer that is susceptible to liquefaction during a seismic event. The compaction process will result in settlement of the existing dirt by around one foot.

Replacement of Utilities. The existing utility systems across the project are failing in various degrees but all failing nonetheless. There is documentation of water leakage throughout the project site area to the extent that local repairs cannot be made. The storm sewer system is also leaking underground and is undersized to carry storm water at today's design levels. Power infrastructure is old, not able to sustain more demands on the system and in need of replacement simply due to age. Telecommunication systems are minimal simply due to the vast increase in requirements in this arena in the last 20 years that the 1940s vintage improvements did not include. The project includes construction of new utility systems to sustain full build-out of the project. New improvements will ensure supply of services to new users with efficiency that yields less energy usage compared to the original development and even buildings developed in the last 10 years. Reconstruction of utilities will eliminate wasteful leakages that add to contamination of bay waters through water table migration.

Grading and Drainage. After the surcharging program, the sites will be rough-graded to a super pad elevation to allow for construction of vertical improvements. Each "vertical" building project will be responsible for its respective share of surrounding site improvements to support the building and such improvements will follow design standards being developed for the project now. The grading and drainage plan for the project shows grades and drainage patterns to the extent that all drainage will meet current state and local retention and filtration requirements for protection of downstream sources, namely San Francisco Bay. The storm system will be replaced for the most part but tie into existing Bay outfalls. The new drainage plan shows that we have provided more than 4% filtration areas to receive runoff. The distribution of landscape areas to serve as filtration zones is very good so there will be adequate natural filtration.

Circulation. Along all the arterials sidewalks and bike lanes are provided. The bike lanes extend the existing system so that there is full connectivity between the east/west path from Emeryville to the Bay Bridge into the project site along Burma Road and into Maritime where the bike path heads south all the way to 7th street where it parts east and west; east going along 7th street, under Interstate-880 to Wood Street and west going to Middle Harbor Park.

Public Roadway Improvements. Maritime Street and Burma Road, the two primary existing roadways within the project, are sinking and crumbling, therefore in need of total replacement. Replacing and realigning these roads will allow for better traffic flow Within the Port, enable the replacement of the utility systems, and provide access to the future gateway park at the base of the Bay Bridge. New roadway design with reduced intersections will increase traffic efficiency, reduce accidents and reduce emissions. The project will also construct new bike lanes to connect to other projects thus enabling more thoroughfare through the site to existing and planned parks. The City is coordinating with the Bay Area Toll Authority, which is planning for a Gateway Park at the west end of Burma Road. The City will work closely with BATA to investigate the placement of Bay Bridge artifacts along and over Burma Road, so long as the

proposed artifact installation does not require funding from the City or its partners, and has minimal or no impact on the functionality of the City's lands.

Landscaping. While not normally seen in intermodal facilities we are planning new landscaping areas to enhance views, reduce heat gain and to facilitate drainage filtration. Reduction of impervious areas is possible through good planning practices particularly when facilities share truck parking areas to maximize usage and eliminate unnecessary pavement. It is our plan to install a new reclaim water system to irrigate landscaping thus saving more potable water from the nearby facility that feeds all of West Oakland.

Wharf Improvements. Existing wharves have been studied to determine the extent of repairs and costs for reuse as a working waterfront. The wharves have deteriorated over the past 60 years but have adequate structure to allow repairs to bring them into a useful mode for bulk shipping activities. Repair through public and private investment will facilitate new businesses along the wharves that enhance rail activities and local hiring. No new wharf structures are part of this project.

Please refer to the activities described in drawing X-128, attached.

Segment 4: Recycling Facilities

Two recycling operators located in a mixed used neighborhood of West Oakland would be relocated to the industrial area adjacent to the Port. Both recyclers utilize the Port terminals for the export of metals, paper and other collected materials.

Please refer to drawing X-129, attached, for a description of the recycling facilities.

Segment 5: City Trade & Logistics Facilities

Bulk Cargo Marine Terminal. On the City's West Gateway site, berth 7 would be converted to a modern bulk cargo marine terminal for movement of commodities such as iron ore, corn and other products brought in to the terminal by rail. 80,000 DWT Panamax vessels would be filled with cargo brought in by rail, unloaded on site and moved by conveyor into the ship's cargo holds. The terminal would also accommodate project cargo such as windmills, steel coils and oversized goods. The proposed improvements include new rail tracks from the Unit Train Support Yard to this marine terminal, as would improvements to the wharf structure including new piles and protection of existing piles, construction of new purpose-built cargo handling facilities such as a bulk railcar unloading pit, bulk material storage building, ship loader, and conveyor belts between the unloading pit, storage building and ship loader.

Trade and Logistics Facilities. Approximately one million square feet of port-oriented trade and logistics facilities would be constructed on the Central and East Gateway sites. The facilities proposed include 8 new warehouses, ranging from small footprint transload buildings for the rapid transfer of goods from container to railcar or truck, distribution warehouses which would have a larger footprint for Fortune 500 companies to use for regional and national distribution. Rail service and truck parking would be provided for the warehouses as appropriate. The facilities would be used predominantly by importers and exporters for goods movement associated with the Port of Oakland transportation hub.

Please refer to drawing X-130, attached, for a description of the trade and logistics facilities.

Segment 6: Unit Train Support Rail Yard

In Segment 6, a new 8-track unit train support yard will be built with 31,000 feet of new track. The new track will be used for 100 car or greater unit trains for additional storage track for bulk and container trains to be staged prior to loading or unloading. The unit train support yard can accommodate 4 unit trains at any one time with its 8 approximately 4,000 ft tracks. The yard can accommodate as many as 28 trains per week. The support yard will be used for the bulk cargo marine terminal, container train staging, and bulk cargo transload operations within the Port.

Please refer to drawing X-127, attached, for a description of the rail improvements.

SMITH & BROCKHAGE, LLP
3480 BUSKIRK AVENUE, SUITE 200
PLEASANT HILL, CALIFORNIA 94523

Telephone: (925) 296-0636
Facsimile: (925) 296-0640

TAB 18 & 19

RANDALL M. SMITH
rms@smithbrock.com

June 11, 2012

RECD BY CTC
JUN 13 2012

City Council
City of Oakland
One Frank Ogawa Plaza
One City Hall Plaza, 2nd Floor
Oakland, CA 94612

Re: Oakland Army Base Development

Honorable Members of the City Council:

We represent Gallagher & Burk, Inc., a long-time Oakland contractor. My client is very concerned about the fact that there are not adequate provisions for competitive bidding with regard to the design and construction of the public improvements which are planned in connection with the Oakland Army Base Development. The construction of the public infrastructure improvements for the Oakland Army Base Development is estimated to cost approximately $247.2 million. (See, Page No. 12 of the Agenda Report from Fred Blackwell to the City Administrator dated May 30, 2012 (the "Administrator's Agenda Report")). Yet, there are no provisions in the proposed ordinance, a copy of which is enclosed (the "Proposed Ordinance"), for the competitive bidding of any of this public infrastructure work.

The California legislature has enacted a host of statutes requiring that public works contracts over certain dollar amount thresholds be procured by competitive bidding. (*See, e.g.*, Public Contract Code section 10100, et. seq., (State), Public Contract Code section 20120, et. seq., (Counties), Public Contract Code section 20160, et. seq. (Cities)). Similarly, the City of Oakland's Municipal Code provides that, with certain limited exceptions, competitive bidding is required for public works projects exceeding $50,000. (*See*, Municipal Code section 2.04.010, et. seq.).

Competitive bidding is a safeguard for the protection of the public, and the public fisc. Its purpose is to guard against favoritism, imprudence, extravagance, fraud and corruption, to prevent the waste of public funds, and to obtain the best economic result for the public. *Kajima/Ray Wilson v. Los Angeles County Metropolitan Transportation Authority*, 23 Cal.4th 305, 314 (2000); *Great West Contractors, Inc. v. Irvine Unified School District*, 187

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Cal.App.4th 1425, 1445-1449 (2010); *Marshall v. Pasadena Unified School District*, 119 Cal.App.4th 1241, 1256 (2004); *Boydston v. Napa Sanitation District*, 222 Cal.App.3d 1362, 1368 (1990); *Konica Business Machines, USA, Inc. v. Regents of the University of California*, 206 Cal.App.3d 449, 456-457 (1988). Competitive bidding also serves to stimulate advantageous marketplace competition. *Dorrian Electric, Inc. v. City of Los Angeles*, 9 Cal.4th 161, 173 (1994); *Konica Business Machines, USA, Inc. v. Regents of the University of California, supra.*

Instead of requiring competitive bidding, the Proposed Ordinance, in Sections 7 and 12, simply authorizes the City Administrator or her designee to negotiate and execute a contract for the design-build of the public improvements with CCIG Oakland Global, LLC ("Developer"). The Proposed Ordinance, in Section 6, provides that "for the reasons set forth above and in the City's Administrator's Agenda Report accompanying this Ordinance, the City Council finds that it is in the best interests of the City to waive advertising and bidding and request for proposal processes for the selection of a qualified contractor to design and construct the Public Improvements, and so waives the requirements."

In the recitals on Page No. 4 of the Proposed Ordinance, the stated reason for waiving the requirement for competitive bidding is that conducting a competitive bid process for this project "would require four to six months" and "to be able to begin construction by the TCIF [California Transportation Commission ("CTC")] funding deadline of December 2013, the selected contractor would have to use more resources on the project than usual at a higher cost to the City." If the competitive bid process were to take four to six months, as claimed, construction work could easily begin by December 2013. Moreover, the statement that to begin work "the contractor would have to use more resources on the project than usual at a higher cost" is not substantiated. We have not seen any evaluation of what the amount of this "higher cost" would be, much less how such a claimed "higher cost" compares with the lower costs to the City resulting from putting the design-build contract out for competitive bid.

The stated reason given in the Administrator's Agenda Report (on Page 13) for waiving competitive bidding requirements for the Design-Build Contract is as follows: "There is simply not enough time to accomplish a more traditional 100% design/bid/build process and be assured to be under construction by the end of 2013." Accordingly, the Administrator's Agenda Report would have one believe that the only two choices are to (1) complete a 100% design, put the project as designed out for bid, and build the project,

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or (2) award a design-build contract to Developer and allow the Developer to contract with a Design-Build Contractor of its choice. There are more than these two choices available to the City.

The other choices are to put the design-build contract out for competitive bid now (before the design is complete), so that the City can obtain bids from other entities in addition to the Developer for the design-build contract, and/or include strict requirements in the design-build contract between the City and the Developer to require that all of the public infrastructure construction work be competitively bid by the Design-Build Contractor. Indeed, the City Administrator's Report, on Page 13, states: "The next stage of the design/build process is to complete the design document to the approximately 35% level, at which point the scope of work can be accurately priced and a Gross Maximum Price (GMP) Contract awarded to a design/build general contractor." Accordingly, the City could put a design-build contract out for competitive bid once the design has reached approximately the 35% level. Such a method of procurement is specifically authorized in Section 2.04.180 of the City's Municipal Code.

We recognize the City's need for certainty that work will commence on the public infrastructure by the CTC deadline of December 2013. While that need for certainty may justify the City entering into a design-build contract for the public improvements with the Developer, it does not justify the City's action to allow the Developer to enter into a design-build contract with a Design-Build Contractor which may be one or more of its "team members". Without competitive bidding for the public infrastructure work, issues arise concerning favoritism and conflict of interest, particularly if the Design-Build Contractor awards contracts for the work to "team members". The CTC, which is expected to provide nearly a quarter billion dollars of public funds for the project, has its Guidelines for Conflicts of Interest. While focusing on design professionals, the goal of the Guidelines requirements are ". . . to promote fairness and impartiality . . . ". Here, nothing less than competitive bidding by the Design-Build Contractor of all the public infrastructure construction work will assure fairness and impartiality. Our suggestion is that if the Council decides at this time to enter into the design-build contract with the Developer it should include in that design-build contract "pass through" provisions requiring that the Developer mandate that the Design-Build Contractor use competitive bidding for all of the public infrastructure construction work.

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In short, the preferred alternative would be to include in the City/Developer agreements (e.g. the Design-Build Contract and the Lease Development and Disposition Agreement) requirements that all the public infrastructure work be competitively bid. In the Administrator's Report, on Page 13, it states that "as much as 75% of the construction contracting will be competitively bid, with at least three valid bids associated with every subcontract." Yet, we have searched, in vain, for any such requirement in the Proposed Ordinance or in any of the documents attached to the Proposed Ordinance. Indeed, we have not been able to find any provision in any of these documents which would require the Developer or its Design-Build Contractor to put any of the work out for competitive bid.

It certainly is not in the City's best interests to waive all requirements for competitive bidding with regard to this project. Indeed, because of the economic times, contractors are now especially competitive in their bids. Many bids on public works projects in California have recently come in substantially under the owner's projected construction costs. In order to lessen the cost of the project to the City and taxpayers (as well as to further the other policies which are advanced by competitive bidding), it would be in the City's best interests to maximize competitive bidding on this project.

We respectfully request that, in moving forward on this important project, the City Council maximize the use of competitive bidding.

Thank you for your consideration of this important issue.

Very truly yours,

SMITH & BROCKHAGE, LLP

Randall M. Smith, Esq.

RMS/mt
cc: California Transportation Commission

7502.1/Oakland City Council Letter re Oakland Army Base Project.doc

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FILED
OFFICE OF THE CITY CLERK
OAKLAND

2012 MAY 31 PM 4:40

Approved as to Form and Legality:

Deputy City Attorney

CITY OF OAKLAND

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE: (1) AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A LEASE DISPOSITION AND DEVELOPMENT/BILLBOARD FRANCHISE AGREEMENT, GROUND LEASES, SITE MANAGEMENT PASS-THROUGH LEASE, AND RELATED DOCUMENTS (COLLECTIVELY "LDDA") BETWEEN THE CITY OF OAKLAND, AND PROLOGIS CCIG OAKLAND GLOBAL, LLC, A DELAWARE LIMITED LIABILITY COMPANY (OR ITS RELATED ENTITIES OR AFFILIATES), FOR THE DEVELOPMENT OF A MIXED-USE INDUSTRIAL (WAREHOUSING AND LOGISTICS), COMMERCIAL, INCLUDING BILLBOARD, MARITIME, RAIL, AND OPEN SPACE PROJECT ON APPROXIMATELY 130 ACRES IN THE CENTRAL, EAST, AND WEST GATEWAY AREAS OF THE FORMER OAKLAND ARMY BASE ("PROJECT"); (2) AMENDING IN PART THE CITY'S EMPLOYMENT AND CONTRACTING PROGRAMS FOR THE ARMY BASE PROJECT; AND (3) WAIVING THE ADVERTISING AND REQUEST FOR PROPOSAL PROCESS FOR A DESIGN-BUILD CONTRACT FOR THE CONSTRUCTION OF PUBLIC IMPROVEMENTS AS DESCRIBED IN THE LDDA ("PUBLIC IMPROVEMENTS"), AND AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A CONTRACT FOR THE DESIGN-BUILD OF THE PUBLIC IMPROVEMENTS WITH CCIG OAKLAND GLOBAL, LLC, IN AN AMOUNT TO BE DETERMINED PURSUANT TO THE TERMS OF THE LDDA; ALL OF THE FORGOING DOCUMENTS TO BE IN A FORM AND CONTENT SUBSTANTIALLY IN CONFORMANCE WITH THE ATTACHED DOCUMENTS, WITHOUT RETURNING TO CITY COUNCIL

WHEREAS, in 2003, in order to enable local economic redevelopment and job creation and ease the economic hardship on the local community caused by the base closure per Section 2903 of Title XXIX of Public Law 101-510, the U.S. Department of the Army ("Army") transferred via No-Cost Economic Development Conveyance ("EDC") certain real property (the "EDC Property") located in the City of Oakland, County of Alameda, State of California, to the Oakland Base Reuse Authority ("OBRA"), a joint powers authority composed of the City of Oakland ("City") and the Redevelopment Agency of the City of Oakland ("Agency") under the California Joint Exercise of Powers Act as set forth in Title 1, Division 7, Chapter 5, Article 1 of the Government Code of the State of California (Government Code § 6470 *et seq.*) by that certain Quitclaim Deed for No-Cost Economic Development Conveyance Parcel, ("Army EDC

Deed") recorded August 8, 2003, as Doc. 2003-466370 in the Office of the Recorder of Alameda County, California (the "Official Records"); and

WHEREAS, immediately thereafter, OBRA transferred portions of the EDC Property to the Port of Oakland ("Port"), such that the Port now owns approximately 241 acres (the "Port Development Area"), and the City owns approximately 170 acres, (the "Gateway Development Area"), which EDC Property is generally depicted on the site map attached as Exhibit A; and

WHEREAS, in 2006, pursuant to the Oakland Army Base Title Settlement and Exchange Agreement between the State of California, acting by and through the State Lands Commission ("State"), the Port, OBRA and the City dated June 30, 2006, the City and Port completed the exchange of public trust lands, such that the public trust was terminated on all of the City owned EDC Property (see State of California Patent and Trust Termination recorded August 7, 2006, as Doc. 2006-301853 in the Official Records), except on one approximately 16.7 acre parcel conveyed from the State to the City by State of California Patent and Trust Termination recorded August 7, 2006, as Doc. 2006-301850 ("Parcel E"); and

WHEREAS, also in 2006 and 2007, the portions of the EDC Property owned by OBRA that were not subject to the public trust were conveyed by OBRA to the Agency by the following Quitclaim Deeds, recorded September 19, 2006 as Docs. 2006-354006 and 2006-354007 and May 17, 2007 as Doc. 2007-190760 in the Official Records; and

WHEREAS, pursuant to a March 3, 2011 Purchase and Sale Agreement, the Agency sold and conveyed the Agency-owned portions of the EDC Property, excepting Parcel E, to the City by grant deed recorded January 31, 2012 as Doc. 2012-30757 in the Official Records; Parcel E, was transferred to the City as successor agency on February 1, 2012, pursuant to ABx1 26, the law dissolving redevelopment agencies; and the City desires to continue the redevelopment efforts in the Gateway Development Area; and

WHEREAS, the City of Oakland Charter Section 305 authorizes the City's Mayor to actively promote economic development to broaden and strengthen the commercial and employment base of the City; and

WHEREAS, pursuant to City Planning Code Section 17.104.060, advertising signs are permitted under the terms and conditions of a franchise agreement authorized by the City; and

WHEREAS, to guide redevelopment of the EDC Property, the City adopted the Oakland Army Base Area Redevelopment Plan in 2000, as most recently amended and restated March 21, 2006 per City Ordinance No. 12734 C.M.S ("Redevelopment Plan"), and adopted the Base Reuse Plan in July 31, 2002, which plans affect and control the development of the EDC Property; and

WHEREAS, in 2008, the City issued a Request for Qualifications to identify potential development teams for redevelopment of a portion of the Gateway Development Area, including all aspects of the planning and development of the site; and

WHEREAS, the City selected Prologis Property, L.P. ("Prologis") (successor-in-interest to AMB Property, L.P., a Delaware limited partnership), and CCIG Oakland Global, LLC ("CCIG"), a California limited liability company (successor-in-interest to California Capital

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Group, a California general partnership) (Prologis and CCIG referred to herein collectively as "Developer") to negotiate with regarding development of a portion of the Gateway Development Area the ("Project Site" or "Property"), generally depicted on the site map attached as Exhibit B; and

WHEREAS, the City and Developer entered into an Exclusive Negotiating Agreement ("ENA") on January 22, 2010, a first amendment on August 10, 2010 and a second amendment on April 11, 2011; a third amendment is pending execution by June 12, 2012, regarding the Project Site; and

WHEREAS, to support redevelopment of the EDC Property and serve the Gateway Development Area, including the Project Site, beginning in 2008, the Port, then the City and the Port, began pursuing Trade Corridor Improvement Fund ("TCIF") grant monies under the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 for infrastructure improvements to serve the EDC Property, known as the Outer Harbor Intermodal Terminals ("OHIT") improvements; and

WHEREAS, the development contemplated in the ENA is dependent on infrastructure described and funded in part by the TCIF grant monies, including a rail yard, and to that end, the City and Port have entered into an agreement that describes how the City and Port will cooperate on developing the shared infrastructure and related costs, known as the Cost Sharing Agreement, dated July 27, 2011, which agreement may be amended from time to time; and

WHEREAS, during the ENA period, the City entered into a Professional Services Agreement with the California Capital Group, to design the OHIT infrastructure improvements for the EDC Property and related necessary off-site intersection improvements ("Public Improvements") to support the timeline required by the application for TCIF monies; and

WHEREAS, consistent with the terms developed through the ENA period, the City desires to have the Developer, through its affiliate and assignee, CCIG: (a) act as the franchisee/licensee for the construction and operation of billboards on the Project Site; (b) manage the Project Site for pre-construction work and the Public Improvements work through a pass-through lease, and (c) manage the construction, through a design-build contract, of the Public Improvements; and

WHEREAS, during the ENA period, the City and the Developer evaluated the design and financial feasibility of a proposed mixed-use industrial (warehousing and logistics), commercial, including billboards, maritime, rail, and open space project on the Project Site; and

WHEREAS, Developer desires to lease the Project Site for billboard use and development of approved uses ("Private Improvements") in five lease areas - Billboard Sites, West Gateway, Rail Right of Way, Central Gateway and East Gateway; and

WHEREAS, together, the Public Improvements and Private Improvements on the Project Site are considered the "Project;" and

WHEREAS, staff and Developer have negotiated the terms of a Lease Disposition and Development Agreement ("LDDA") and its exhibits, including Ground Leases related to the four lease areas for the lease of the Project Site for development of the Private Improvements, a

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Billboard Franchise/Lease Agreement, a Site Management Pass-Through Lease to allow for management of the Project Site for the Public Improvement work, a Design-Build Contract for construction of the Public Improvements, and related documents which set forth the terms and conditions of the development of the Project and the use of the Property by the Developer and any successors to the Property; copies of the LDDA and its attachments are attached hereto as Exhibit C; and

WHEREAS, pursuant to Oakland Municipal Code Sections 2.04.050.1, 2.04.051.B, and 2.04.180, the City Council may waive advertising and bidding and request for proposal processes to select a contractor for award of a contract to design and construct a design-build project upon a finding that it is in the best interests of the City to do so; and

WHEREAS, conducting a competitive bid process for a design-build project as complex as the Public Improvements would require four to six months and entail developing a scope and Request for Proposals, advertising the project, holding at least two pre-bid meetings, evaluating submissions, negotiating the contract, and seeking the City Council's authorization to enter into the contract; and

WHEREAS, to be able to begin construction by the TCIF deadline of December 2013, the selected contractor would have to use more resources on the project than usual at a higher cost to the City; and

WHEREAS, the City Administrator recommends that it is in the best interests of the City to waive the advertising and bidding and request for proposal processes for the contract to design and construct the Public Improvements because it enables TCIF project timelines to be met and helps ensure retention of the TCIF grant monies, which are necessary for the construction of Public Improvements; and

WHEREAS, consistent with the purposes of the EDC transfer from the Army to create local jobs, the City and Developer desire to implement a Community Benefits Program as set forth in the LDDA that commits to, among other things, creating jobs for the local community in West Oakland, and to that end includes employment policies and procedures that are intended to strengthen existing City policies and expressly supersede the employment portions of City Council Ordinance No. 12389 (12/18/01), as amended by City Council Ordinance 13101 (12/20/11), and the program Guidelines in the Local and Small Local Business Enterprise Program guidance dated February 1, 2012 with regard to Local Employment Program, Local Construction Employment Referral Program, and Apprenticeship Program; and

WHEREAS, consistent with the purposes of the EDC transfer from the Army, the City has amended the Base Reuse Plan to reflect development of the Project; and

WHEREAS, the City finds that the Project will implement the goals and objectives of the Redevelopment Plan and the Base Reuse Plan; and

WHEREAS, the City previously prepared and certified/adopted the 2002 Oakland Army Base ("OARB") Redevelopment Plan Environmental Impact Report, which was a "project level" EIR pursuant to California Environmental Quality Act ("CEQA") Guidelines section 15180(b); the 2006 OARB Auto Mall Supplemental EIR and 2007 Addendum; and the 2009 Addendum for the Central Gateway Aggregate Recycling and Fill Project; while the Port prepared and adopted

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the Port's 2006 Maritime Street Addendum (collectively called "Previous CEQA Documents); and

WHEREAS, in addition to any grant funds, City funds will be available for the construction of the Public Improvements pursuant to the Design-Build contract from: (1) Joint Army Base Infrastructure Fund (5672) Infrastructure Master Plan Project (C415720); (2) OBRA Leasing & Utility Fund (5671) Leasing & Utility Project (P294110); (3) OBRA Utility & Leasing Fund (5671) Tidelands Tmst Related Project (C437310); (4) Oakland Army Base Joint Remediation Fund (5674); and (5) scheduled land sales; and

WHEREAS, the funds in the Oakland Army Base Remediation Fund (5674) shall be used solely for the environmental remediation of the Project Site, and if funds remain after environmental remediation has been completed, staff will recommend that the City Council reprogram the funds remaining in Oakland Army Base Remediation Fund (5674) for other Public Improvements; and

WHEREAS, in return for the City's agreement to franchise and lease up to five billboard sites to Developer, Developer is required to pay billboard proceeds to the City on the terms and conditions set forth in the Billboard Franchise/Lease Agreement; and

WHEREAS, in return for the City's lease of the Property to Developer, Developer is required to pay rent to the City on the terms and conditions as set forth in the Ground Leases; and

WHEREAS, the initial terms of the Ground Leases shall commence on the date possession is delivered under the LDDA, and continue for 66 years from the commencement date, all on the terms and conditions as described in the respective Ground Leases; and

WHEREAS, under the Ground Leases, the City shall retain ownership of the Project Site at all times; and

WHEREAS, the LDDA requires that the Developer constmct and operate the Project consistent with the Redevelopment Plan and restricts the use of the Property to specified uses as set forth in the "Scope of Development" attached to the LDDA; and

WHEREAS, the LDDA incorporates a Community Benefits Program that addresses environmental, contracting and jobs requirements consistent with the so-called "Areas of Agreement" as set forth in that certain City Council meeting report dated December 13, 2011.

WHEREAS, consistent with the Areas of Agreement, the City has adopted a resolution authorizing the City Administrator to use reasonable efforts in good faith to negotiate and execute a Cooperation Agreement with specified Community Groups, the Alameda County Building and Constmction Trades Council, and the Alameda County Central Labor Council (collectively the "Coalition"), an unincorporated association of employment and contracting advocacy organizations that, among other things, in return for the Coalition's release of claims regarding the Project, requires the City to include (a) a Construction Jobs Policy as a material term of any contract that the City awards for work to be performed on the Project Site; and (b) an Operations Jobs Policy as a material term of certain leases or service contracts that the City enters into with any entity that may employ workers on the Project Site; and

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WHEREAS, a copy of the proposed LDDA and its exhibits with the related agreements is on file with the City Clerk;

NOW, THEREFORE THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1: The City Council, based upon its own independent review, consideration, and exercise of its independent judgment, hereby finds and determines, on the basis of substantial evidence in the entire record before the City, that none of the circumstances necessitating further CEQA review are present. Thus, prior to approving the Project, the City can rely on the Previous CEQA Documents and the 2012 OARB Initial Study/Addendum.

Section 2: Specifically, the City Council affirms and adopts as its own, the findings and determinations the June 12, 2012, City Council Agenda Report, including without limitation the discussion, findings, conclusions, specified conditions of approval (including the Standard Conditions of Approval/Mitigation Monitoring and Reporting Program ("SCA/MMRP")), and the CEQA findings contained in ***Attachment C*** to the Agenda Report, each of which is hereby separately and independently adopted by this Council in full, as if fully set forth herein.

Section 3: The City Council finds and determines that this action complies with CEQA and the Environmental Review Officer is directed to cause to be filed a Notice of Determination with the appropriate agencies.

Section 4: The record before this Council relating to this action, includes without limitation those items listed in ***Attachment C*** to the Agenda Report for this item, as if fully set forth herein, which are available at the locations listed in said Exhibit.

Section 5: The City hereby finds and determines that the lease of the Property through the Site Management Pass-through Lease for the Public Improvements, the Billboard Franchise/Lease Agreement and the Ground Leases by the City to the Developer for the Project furthers economic development in the City, conforms to and furthers the goals and objectives of the Redevelopment Plan in that: (1) the Project, once developed, will create permanent jobs for low and moderate income people, including jobs for area residents; (2) the Project will enhance the City's and Port's competitiveness and enable it to capture more of the growth in the global logistics industry; and (3) the Project, once developed, will enhance depreciated and stagnant property values in the surrounding areas, and will encourage efforts to alleviate economic and physical blight conditions in the area, including high business vacancy rates, excessive vacant lots, and abandoned buildings, by enhancing the development potential and overall economic viability of neighboring properties.

Section 6: Pursuant to Oakland Municipal Code Sections 2.04.050.1, 2.04.051.B, and 2.04.180 and for the reasons set forth above and in the City Administrator's Agenda Report accompanying this Ordinance, the City Council finds that it is in the best interests of the City to waive advertising and bidding and request for proposal processes for the selection of a qualified contractor to design and constmct the Public Improvements, and so waives the requirements.

Section 7: The City Administrator or her designee is authorized to negotiate and execute a contract for the design-build of the Public Improvements with CCIG in an amount to be determined pursuant to the terms of the LDDA.

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Section 8: The City Administrator or her designee is authorized to lease the Property to Developer, subject to and on the terms and conditions of the LDDA and the respective Site Management Pass-Through Lease, and Ground Leases/Billboard Franchise/Lease Agreement.

Section 9: The City Administrator or her designee is authorized to allocate funding in the amount of $54,500,000 for the implementation of the Project from (1) Joint Army Base Infrastmcture Fund (5672) Infrastmcture Master Plan Project (C415720); (2) OBRA Leasing & Utihty Fund (5671) Leasing & Utility Project (P294110); (3) OBRA Utility & Leasing Fund (5671) Tidelands Tmst Related Project (C437310); (4) Oakland Army Base Joint Remediation Fund (5674); and (4) scheduled land sales to Fund (5672) and Project (to be established).

Section 10: The funds in Oakland Army Base Remediation Fund (5674) shall be used solely for the environmental remediation of the Project Site, and if funds remain after environmental remediation has been completed, staff will recommend that the City Council reprogram the funds remaining in Oakland Army Base Remediation Fund (5674) for other Public Improvements.

Section 11: The City and the Developer have agreed to a Community Benefits Program that includes environmental, contracting and jobs provisions as set forth in the LDDA. The environmental requirements are set forth in the SCA/MMRP attached to the LDDA. The contracting requirements follow the City's Contracting Policy (Council Ordinance 13101 (12/20/11)), as amended by this LDDA to provide for a capacity study/good faith compliance provisions and special conditions for contracting with West Oakland businesses. The Developer has agreed to implement a Constmction Jobs Policy and an Operations Job Policy, both of which strengthen existing City employment policies. The Constmction Jobs Policy and the Operations Job Pohcy expressly supersede the employment portions of City Ordinance No. 12389, as amended by Council Ordinance 13101 (12/20/11), and the program Guidelines in the Local and Small Local Business Enterprise Program guidance dated Febmary 1, 2012 with regard to Local Employment Program, Local Constmction Employment Referral Program, and Apprenticeship Program. The City has agreed to make good faith efforts to enter into a Cooperation Agreement with the Community Groups and a Project Labor Agreement for the Public Infrastmcture that incorporates the Constmction Jobs Policy and Operations Jobs Policy

Section 12: The City Administrator or her designee is hereby authorized to negotiate and execute, in form and content substantially in conformance with the LDDA and its attachments, as set forth in Exhibit C, without returning to City Council: (1) the LDDA with the Developer for the Project, (2) upon satisfaction or waiver of the conditions precedent, the Ground Lease(s); (3) the exhibits to the LDDA including, without limitation, the Billboard Franchise/Lease Agreement, Site Management Pass-Through Lease, and the Design-Build Contract; and (4) such other additions, amendments or other modifications to the LDDA (including, without limitation, preparation and attachment of, or changes to, any or all of the exhibits) that the City Administrator, in consultation with the City Attorney's Office, determines are in the best interests of the City, do not materially increase the obligations or liabilities of the City, and are necessary or advisable to complete the transactions which the LDDA contemplates to be conclusively evidenced by the execution and delivery by the City Administrator of the LDDA and any such amendments thereto; and (5) such other documents as necessary or appropriate, in consultation with the City Attorney's Office, to facilitate the lease and development of the Property for the Project in order to consummate the transaction under the LDDA in accordance with this

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Ordinance, or to otherwise effectuate the purpose and intent of this Ordinance and its basic purpose.

Section 13: The City Council authorizes City staff to amend the LDDA and related documents if required by the CTC to preserve TCIF funds for the development of the 2012 OARB Project without returning to City Council; and be it

Section 14: The City Administrator shall determine satisfaction of conditions precedent under the LDDA to the conveyance of the leasehold estates in the Project, such determination to be conclusively evidenced by the execution and delivery by the City Administrator of the respective Site Management Pass-Through Lease or Ground Lease(s).

Section 15: All documents related to this transaction shall be reviewed and approved by the City Attorney's Office prior to execution, and copies will be placed on file with the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA,_____, 2012

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF, and PRESIDENT REID

NOES-

ABSENT-

ABSTENTION-

ATTEST:_____
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

DATE OF ATTESTATION: _____

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