



**REPORT TO THE CITY COUNCIL FOR THE
2009 REDEVELOPMENT PLAN AMENDMENT**

**ALSO SERVING AS: REPORT TO STATE
DEPARTMENTS OF FINANCE AND HOUSING
AND COMMUNITY DEVELOPMENT PER CRL
SECTION 33451.5(C)**

Redevelopment Agency of the City of Hercules

March 24, 2009

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INTRODUCTION

The City of Hercules ("City") was originally established as a company town for the California Powder Works Company ("CPWC") in 1881 and was incorporated in 1900. To reverse the adverse economic and physical conditions plaguing the City due to closure of the dynamite and fertilizer production plant in 1977, the City established the City of Hercules Redevelopment Agency ("Agency") to stimulate redevelopment and economic development projects. The City adopted its first redevelopment project area, the Dynamite Redevelopment Project Area ("Dynamite Project Area"), on November 30, 1983, with the adoption of Ordinance No. 181. The Dynamite Project Area was subsequently amended on April 26, 1994, by Ordinance No. 325 and again on February 27, 1996, by Ordinance No. 333. The City's second redevelopment project area, Project Area No. 2 ("Project Area 2"), was initially adopted on April 13, 1999, by Ordinance No. 351. On February 13, 2001, the City Council adopted Ordinance No. 363 approving an amendment and merger of the original redevelopment plans for Dynamite Project Area and Project Area 2, creating the "Merged Project Area". The Merged Project Area was amended on March 8, 2005, by Ordinance No. 403.

The Agency now seeks to amend ("2009 Amendment" or the "Amendment") the Amended and Restated Redevelopment Plan for the Merged Project Area ("Existing Plan") in order to:

1. Add approximately 58.65 acres of territory, referred to as the Added Area, to the existing Merged Project Area;
2. Extend the life of the Existing Plan, the time limit on the payment of indebtedness, and the receipt of property taxes by an additional ten years for the Dynamite Project Area; and
3. Reinstate the Agency's eminent domain authority for a period of twelve years over certain portions of the Dynamite Project Area.

As part of this effort, the 2009 Amendment will also result in the creation of a single redevelopment plan ("Updated 2009 Redevelopment Plan" or the "Plan") for the Merged Project Area and Added Area (collectively referred to as the "Project Area").

Table i-1 provides a summary of the time and financial limitations as they are currently in the Existing Plan and as proposed by the 2009 Amendment. Note that the Amendment does not propose any modifications to the financial limitations currently provided for in the Existing Plan.

PROPOSED TIME & FINANCIAL LIMITATIONS FOR THE PROJECT AREA				Table i-1
HERCULES REDEVELOPMENT AGENCY - 2009 AMENDMENT				
<i>Time Limits</i>		<i>Dynamite Project Area</i>	<i>Project Area 2</i>	<i>Added Area</i>
Plan Effectiveness	Existing Plan	11/30/2026	4/13/2030	Not Applicable
	2009 Amendment	11/30/2036	No Change	30 years from adoption
Incur Indebtedness	Existing Plan	Eliminated /1	4/13/2019	Not Applicable
	2009 Amendment	No Change	No Change	20 years from adoption
Collect Tax Increment	Existing Plan	11/30/2036	4/13/2045	Not Applicable
	2009 Amendment	11/30/2046	No Change	45 years from adoption
Eminent Domain	Existing Plan	Expired	12 years beyond 4/13/1999 /3	Not Applicable
	2009 Amendment	12 years from adoption /2	No Change	12 years from adoption
<i>Financial Limits</i>				
Bond Indebtedness	Existing Plan	\$194 Million /4		
	2009 Amendment	No Change		
Tax Increment Revenue	Existing Plan	\$750 Million /5	Not Required	
	2009 Amendment	No Change	Not Required	
/1 Eliminated by the adoption of Ordinance No. 403 on 1/11/2005. /2 Exhibit A-1 identifies the portions of the Dynamite Project Area where the Agency is proposing to reinstate its eminent domain authority. /3 April 13, 1999 is the date of adoption of Ordinance No. 351 adopting Project Area 2. /4 Adjusted annually following adoption of the 2005 Ordinance by any increase in the Consumer Price Index. /5 Adjusted annually following adoption of the 2005 Ordinance by any increase in the Consumer Price Index, net of payments to taxing agencies.				

REPORT TO CITY COUNCIL AND REPORT TO STATE DEPARTMENTS CONTENT

The Agency is pursuing adoption of the 2009 Amendment in accordance with the California Health and Safety Code Section 33000 et. seq. (California Community Redevelopment Law) (“CRL”). This report (“Report”) serves two important functions in the redevelopment plan amendment process; the report to city council, and the report on blight to the State Department of Finance (“DOF”), and the State Department of Housing and Community Development (“HCD”).

As a general note, this Report does not analyze Project Area 2 even though it is a component of the Merged Project Area because the Amendment will have no effect on this area. Furthermore, Project Area 2 has been successfully redeveloped with the completion of Victoria by the Bay and the newly rehabilitated commercial center at the southernmost part of the Project Area.

Report to City Council

This document serves as the Report to the City Council for the proposed 2009 Amendment as required by CRL Sections 33352 and 33333.11(h). It is one of several documents the CRL requires a redevelopment agency to prepare during the redevelopment plan amendment process, and is intended to provide the decision makers with comprehensive information concerning the proposed Amendment.

CRL Section 33352 describes the statutorily-required Report to City Council content for most redevelopment plan amendments. Additionally, Section 33333.11(h) of the CRL describes the additional content required for a Report to City Council when addressing a redevelopment plan amendment that will extend the life of the redevelopment plan by ten years pursuant to CRL Section 33333.10. This Report includes the required content of both CRL Sections 33352 and 33333.11(h) (inclusive of subdivision (e) of CRL Section 33333.11).

Report on Blight to the State Departments of Finance and Housing and Community Development

In addition to serving as the Report to City Council, this Report also serves as the Report on Blight to DOF and HCD (“Report on Blight”) required pursuant to CRL Section 33451.5(c). Pursuant to CRL Section

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33451.5(b), the Report on Blight along with the joint public hearing notice for the Amendment, shall be delivered to the DOF and HCD no later than 45 days prior to the joint public hearing on the Amendment.

According to the CRL, a redevelopment agency is required to prepare a “blight report” when, among other things, it proposes to change the boundaries of a project area or change the time limit on the effectiveness of the redevelopment plan.

Exhibit i-1 on the following page details the requirements of CRL Section 33451.5(c), and aids the reader by identifying the Section and page(s) where each of these requirements can be found within this Report.

Exhibit I-1

CRL Section 33451.5 (c)	Report	
(1) A map of the project area that identifies the portion, if any, of the project area that is no longer blighted, the portion of the project area that is blighted, and the portion of the project area that contains necessary and essential parcels for the elimination of the remaining blight.	Section B	Page 51
(2) A description of the remaining blight.	Section B	Pages 18-53
(3) A description of the projects or programs proposed to eliminate any remaining blight.	Section A	Pages 13-17
(4) A description of how these projects or programs will improve the conditions of blight.	Section A	Pages 13-17
(5) The reasons why the projects or programs cannot be completed without the plan amendment.	Section D	Pages 60-65
(6) The proposed method of financing these programs or projects. This description shall include the amount of tax increment revenues that is projected to be generated as a result of the proposed plan amendment, including amounts projected to be deposited into the Low and Moderate Income Housing Fund and amounts to be paid to the affecting taxing entities. This description shall also include sources and amounts of moneys other than tax increment revenues that are available to finance these projects or programs. This description shall also include the reasons that the remaining blight cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without the use of the tax increment revenues available to the agency because of the proposed amendment.	Section D	Pages 55-65
(7) An amendment to the agency's implementation plan that includes, but is not limited to, the agency's housing responsibilities pursuant to Section 33490. However, the agency shall not be required to hold a separate public hearing on the implementation plan pursuant to subdivision (d) of Section 33490 in addition to the public hearing on the amendment to the redevelopment plan.	Section C	Page 54 & Appendix A
(8) A new neighborhood impact report if required by subdivision (m) of Section 33352.	Section M	Pages 73-75

Report on Population and Housing to State Department of Finance

CRL Section 33328.1(b) specifies that a report shall be prepared and submitted to the DOF that addresses the projected number of residents, including schoolage children and possible need for school facilities in the Added Area. This subject matter relates to other topics included in Section L: Neighborhood Impact Report and for that reason the report may be found at that location.

THE REDEVELOPMENT PLAN AMENDMENT PROCESS

Section 33354.6(a) of the CRL requires that when an agency proposes a redevelopment plan amendment to add new territory (among other things) it shall follow the same procedure, and the legislative body is subject to the same restrictions as when adopting a new redevelopment plan. CRL Sections 33450 through 33458 permit the Agency to recommend amendments to existing redevelopment plans, subject to: 1) the preparation of documents by the Agency to substantiate the need for the amendment(s); 2) the convening of a joint public hearing of the City Council and the Agency on the proposed amendment(s); and 3) consideration and adoption of an ordinance by the City Council approving such amendment(s).

Proceedings for the 2009 Amendment were initiated with the adoption of Resolution No. 07-11 on December 17, 2007, by the City of Hercules Planning Commission ("Planning Commission") adopting the Preliminary Plan for the Amendment ("Preliminary Plan"). On January 8, 2008, the Agency Board adopted Resolution No. 08-003 approving the Preliminary Plan and authorizing staff to submit transmittals as required pursuant to CRL Section 33327, including a request to establish the fiscal year 2007-08 assessment roll as the base year valuation for the Added Area. Subsequently, on October 31, 2008, the Agency notified potentially affected taxing entities of the Agency's intent to use the fiscal year 2008-09 assessment roll as the base year valuation for the Added Area and invited them to consult with the Agency regarding the Amendment. On January 23, 2009, the Agency duly sent a copy of its Preliminary Report for the 2009 Amendment and the draft Updated 2009 Redevelopment Plan to all potentially affected taxing entities, DOF, and HCD. In accordance with CRL Section 33333.11(f), a copy of the draft Plan was received by the Planning Commission on January 20, 2009 - no later than 120 days prior to the joint public hearing on the 2009 Amendment. Subsequently, on January 27, 2009, the draft Environmental Impact Report for the 2009 Amendment ("DEIR") was transmitted by the Agency to all potentially affected taxing entities and concerned individuals. Additionally, the Agency published in the West County Times a notice inviting public comments on the DEIR, and posted such notice with the County Clerk of the County of Contra Costa for 30 days.

On January 27, 2009, the Agency Board and City Council adopted Resolution No. 09-017 and Resolution No. 09-017, respectively, consenting to a joint public hearing on the Amendment and setting a date of May 26, 2009, for such joint public hearing. In accordance with CRL Section 33333.11(g), this Report is scheduled to be transmitted to the required parties no later than April 10, 2009.

All potentially affected taxing entities have been invited to consult with the Agency regarding the 2009 Amendment, and the Agency will incorporate comments from these consultations into the final Report. This Report, the final EIR, and the final Updated 2009 Redevelopment Plan will be considered by the Agency Board and the City Council at its joint public hearing on May 26, 2009. All property owners, residents, business owners, and affected taxing entities of the Project Area will receive notice of this public hearing by mail and through the publication of public notices in the local newspaper.

DESCRIPTION OF THE PROJECT AREA

The City is located in Contra Costa County ("County"), California, in the vicinity of the San Francisco Bay. The City lies along the I-80 corridor, approximately 22 miles northeast of San Francisco and 57 miles southwest of Sacramento. The City is generally bounded by the unincorporated town of Rodeo to the north, the City of Pinole to the south, unincorporated County land to the east, and the southeast shoreline of San Pablo Bay to the west.

Dynamite Project Area

The Dynamite Project Area includes commercial, business park, and mixed residential and commercial uses and is generally located along San Pablo Bay, San Pablo Avenue, Sycamore Avenue, Interstate 80 and John Muir Parkway in the City of Hercules (Exhibit i-2). The Dynamite Project Area is approximately 577 acres in size, and constitutes approximately 11.3% of the total area of the City (4,094 acres).

Added Area

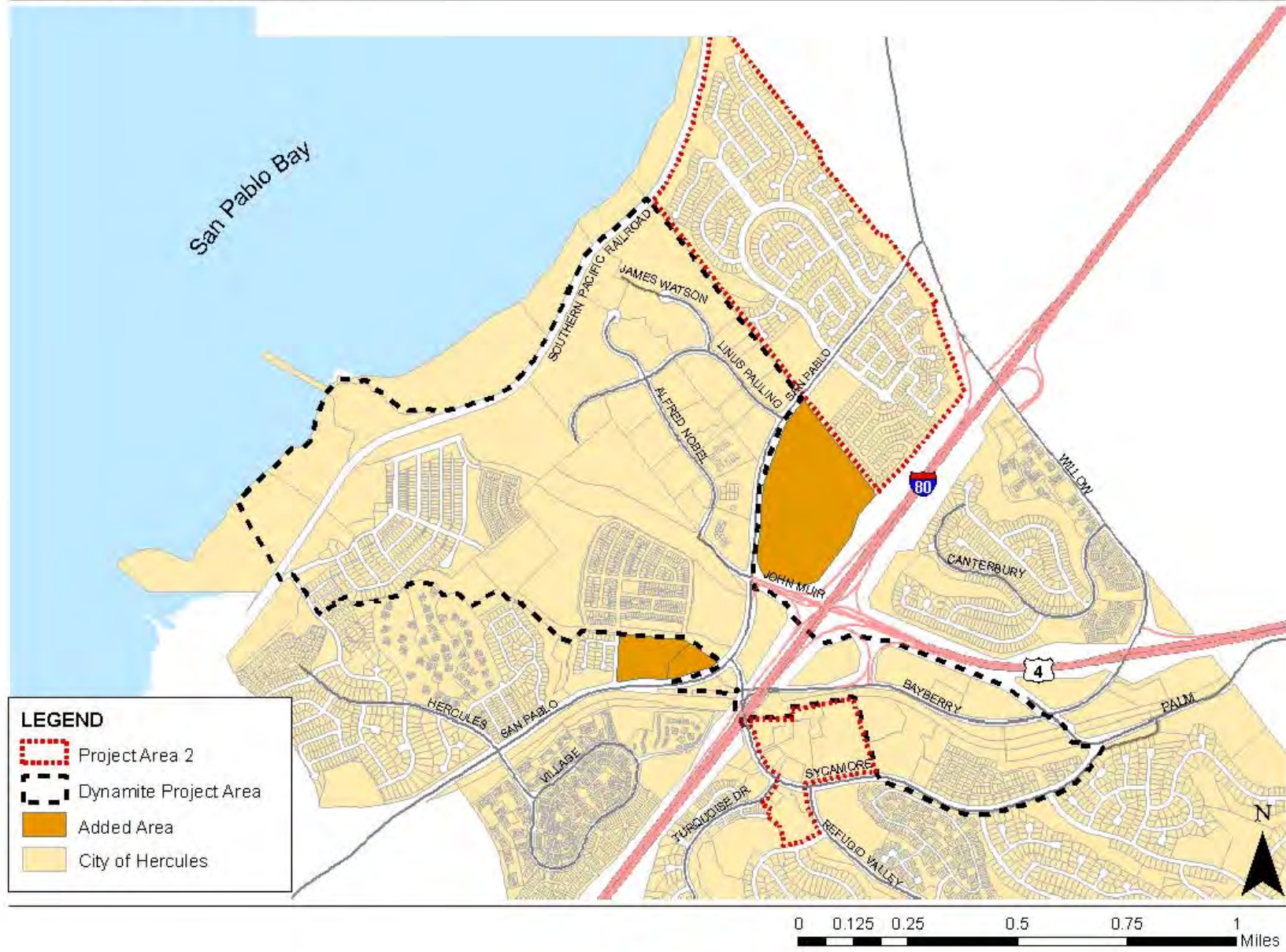
The Added Area is comprised of two noncontiguous properties that are adjacent to the Merged Project Area (Exhibit i-2). The total size of the Added Area is approximately 58.65 acres, which represent approximately 1.4% of the City. The two noncontiguous properties encompass the areas that are currently referred to as Hill Town and Sycamore Crossing.

Hill Town is located along the south side of San Pablo Avenue and is bounded on the north by the “Victoria by the Bay” residential development, on the south by John Muir Parkway, by Interstate 80 on the east, and San Pablo Avenue and the North Shore Business Park on the west. The Hill Town site lies on west-facing slopes of a ridge that forms the eastern boundary of the Refugio Valley. It contains a petroleum tank farm and a storm water treatment facility with detention basins, a cell site, and otherwise vacant lands. Hill Town consists of one assessed parcel, number 404-040-064-2, and totals approximately 44.25 acres. Description of the blighting conditions existing in this area is included in Section B of this Report.

Sycamore Crossing is bounded by Sycamore Avenue to the north, San Pablo Avenue on the south, the intersection of San Pablo Avenue and Sycamore Avenue on the east, and Tsushima Street on the west. Currently the site is vacant and is partially covered with thick vegetation interspersed with trees. A small unnamed tributary associated with Refugio Creek runs north/south across the eastern portion of the site. Sycamore Crossing consists of assessor parcel numbers 404-020-057-0 and 404-020-058-8, and totals approximately 14.4 acres. Blighting conditions in this area are described in Section B of this Report.

PROJECT AREA - BOUNDARY MAP

EXHIBIT i-2



**SECTION A:
THE REASONS FOR THE AMENDMENT TO THE REDEVELOPMENT PLAN AND A DESCRIPTION OF
THE SPECIFIC PROJECTS PROPOSED BY THE AGENCY**

The Merged Project Area has historically suffered from deterioration and obsolescence; deficient design, irregularly shaped parcels, and faulty exterior spacing; shifting uses and vacancy; traffic circulation deficiencies; and debris and toxic waste contamination. Through implementation of the Existing Plan, the Agency has developed projects and programs to mitigate specific physical and economic blighting conditions in the Merged Project Area. The Agency has been instrumental in remediation and assembly of properties to provide parcels suitable for commercial and residential development. The Agency has established the Small Business Retention Program to assist businesses in building stronger local or regional trade and a recruitment effort to attract new bio-science and light manufacturing to the North Shore Business Park. These efforts are aimed at attracting, expanding, and retaining businesses in the Project Area. The Agency has also completed the reconstruction of San Pablo Avenue to provide improved traffic flow and has started construction of the Willow Ramp of I-80 to provide better access to the Project Area. All of these projects have been carefully implemented by the Agency to promote economic development, improve infrastructure and circulation, improve the Merged Project Area's supply of housing, and redevelop properties to remove physical and economic blighting conditions.

However, despite the Agency's activities, blighting conditions remain within the Dynamite Project Area and the proposed Added Area. Specifically, properties exist that suffer from deterioration and dilapidation, obsolescence and defective design, underutilization, shifting uses and/or toxic waste contamination. Additionally, the Dynamite Project Area has been significantly affected by the current housing crisis and is experiencing a high rate of foreclosures. Furthermore, the high cost of remediating hazardous waste contamination, and removing conditions hindering redevelopment in the Project Area such as utility easements, former fuel storage tanks and inadequate sewage treatment facilities have long challenged both the private and public sectors to redevelop certain properties in accordance with the community's vision. For these reasons, the 2009 Amendment is necessary to continue the Agency's efforts in eliminating physical and economic blight and in attracting private investment to the Project Area.

The 2009 Amendment is necessary to carry out redevelopment projects envisioned by the community and Agency. The following projects are essential to the alleviation of blighting conditions in the Project Area. Without the added tools provided for by the Amendment, these projects would not be economically feasible. For these reasons, the Agency is pursuing, in conjunction with the private sector, the following projects in the Dynamite Project Area:

Hercules New Town Center ("HNTC")

This district will establish a new "downtown" for the community and the region. HNTC will include the relocated and expanded transit center at its core, combining a regional bus station and a potential future BART extension. Surrounding these mass transit stations are a proposed pedestrian-oriented mixed-use development which is expected to include:

Phase 1: Market Town

- 56,000 square feet ("sf") retail
- 80,000 sf office building
- 2 parking structures- 1002 spaces
- 15 open space features
- 320 residential units

Phase 2: Cinema Town

- 300,000 sf retail (includes 30,000 cinema)
- 100,000 sf office building

- 600 residential units
- 2,500 parking spaces
- 3 open space features

Phase 3: Transit Town

- 20,000 sf local retail
- 10,000 sf live/work office
- 450 residential units
- 1 parking structure- 1,200 spaces
- 2 public space features

Waterfront Project

The Waterfront Project is a 40-acre transit-oriented, mixed-use, traditional neighborhood project. The project represents the final phase of the Waterfront District Master Plan. At buildout the project is intended to include the following three developments:

Crescent Heights

- 336 residential units
- 2,500 sf flex space
- 26,000 sf office space
- 2,500 sf retail

Bayfront Boulevard

- 241 residential units
- 50,000 sf flex space
- 55,000 sf office space
- 35,000 sf retail
- Inter-modal transit center including ferry and Capital Corridor Train Station, and bus terminal

The Village

- 765 residential units
- 81,500 sf flex space
- 15,000 sf retail
- 23 acres of open space

Rehabilitation of Historic Structures

Historic structures that are remnants of the old CPWC company town remain in the waterfront area. These structures are heavily dilapidated and will require restoration. The Agency intends to participate in the rehabilitation of the former Clubhouse, Masonic Lodge, and Civic Arts building.

Additionally, the Agency is contemplating the following projects for the Added Area in conjunction with the private sector. These projects are a vital part to alleviating blighting conditions and underutilized parcels in the Project Area.

Hill Town

In 2007, a conceptual Initial Planned Development Plan (IPDP) was approved for the Hill Town site. This IPDP is consistent with the uses that are contemplated under the proposed project and consists of:

- A multifamily residential community containing 640 dwelling units on approximately 28 acres;
- Approximately 4,000 square feet of retail commercial;
- Passive open spaces and recreational spaces (13 acres); and
- Approximately 2.5 acres set aside for major roadways.

Sycamore Crossing

Based on the proposed zoning designation, general development concepts are anticipated for the Sycamore Crossing site. The uses contemplated for the Sycamore Crossing site include, but are not limited to, a combination of some or all of the following:

- 140,000 sf of retail commercial space;
- 25,000-sf supermarket;
- 170,000-sf of office space;
- 180-room hotel;
- 170 attached residential units; and
- 2 parking garages.

The anticipated residential units would be a component of mixed-use structures along the south side of Sycamore Avenue, with retail on the ground floor and a mix of office and residential units above. The residential component is anticipated to be a mix of both affordable and market-rate units. This part of the site is intended to mirror the future uses on the opposite side of Sycamore Avenue (the planned Sycamore Downtown Project). Additional residential units would be scattered throughout the site to balance the retail/commercial activities.

HOW THE AMENDMENT WILL ASSIST THE AGENCY IN ACHIEVING THE GOALS AND OBJECTIVES OF THE REDEVELOPMENT PLAN

The Agency intends to effectively implement the redevelopment projects and programs described in Section E of this Report, including capital improvements, commercial and residential rehabilitation, and economic development, long-term planning and affordable housing programs. The Agency is proposing the following Amendment in order to increase the overall commercial and residential viability of the properties within the Project Area, including the Added Area:

1. Add approximately 58.65 acres of territory to the existing Merged Project Area;
2. Extend the life of the Existing Plan, the time limit on the payment of indebtedness, and the receipt of property taxes by an additional ten years for the Dynamite Project Area; and
3. Reinstate the Agency's eminent domain authority for a period of twelve years over certain portions of the Dynamite Project Area.

The Agency is proposing the aforementioned 2009 Amendment, which will provide greater opportunities for the Agency to implement the goals and objectives of the Existing Plan. The following discussion provides a general description of how the Amendment will assist the Agency in carrying out the goals and objectives of the Updated 2009 Redevelopment Plan, which are to eliminate blighting conditions.

Adding Territory to the Merged Project Area

The 2009 Amendment seeks to add territory to the Merged Project Area for the purpose of 1) eliminating blighting conditions, and 2) increasing affordable housing opportunities. Section B of this Report describes in detail the blighting conditions adversely affecting the Added Area. In short, Sycamore Crossing is

substantially surrounded by urban uses but remains vacant and underutilized. There are significant challenges to developing the Sycamore Crossing site related to utility easements that traverse the site. Estimated costs for the relocation of certain easements amount to approximately \$5 million which is a significant burden for either the City or a private property developer to bear. Redevelopment of Hill Town is constrained by the presence of facilities and infrastructure from the former Hercules Pumping Station along with significant soil and groundwater contamination which require extensive investment to decommission the facilities and associated infrastructure, and remediate petroleum hydrocarbon contamination. By including these properties in the Project Area, the Agency can facilitate their redevelopment for the benefit of the entire community.

It is important to note that CRL Section 33320.2 provides that when creating or adding territory to a redevelopment project area, the area included within a project area may be either contiguous or noncontiguous, and either blighted or necessary for effective redevelopment. Generally an area is deemed necessary for effective redevelopment if that area is being used predominantly for, 1) the relocation of owners or tenants, or 2) the construction and rehabilitation of low- or moderate-income housing. The Agency has identified Sycamore Crossing as an ideal location for affordable housing and is working to see that this property includes housing that is made available to persons or families of low and moderate income. By including the Added Area in the Merged Project Area, the Agency will be able to alleviate adverse physical and economic conditions and improve the community's supply of affordable housing.

Extending the Effectiveness of the Existing Plan by Ten Years

Pursuant to CRL Section 33333.10(a)(1), an agency that adopted a redevelopment plan on or before December 31, 1993, may amend that plan to extend the time limit on the effectiveness of the plan for up to ten additional years beyond the limit allowed by Section 33333.6(a). Additionally, CRL Section 33333.10(a)(2) allows an agency to amend its redevelopment plan to extend the time limit on the payment of indebtedness and receipt of property taxes to be not more than ten years from the termination of the effectiveness of the redevelopment plan as that time limit has been amended pursuant to Section 33333.10(a)(1).

The Agency is pursuing a "ten year extension" on the Existing Plan for the Dynamite Project Area only. Despite progress in the elimination of blight in the Merged Project Area, portions of the Dynamite Project Area continue to experience significant blighting conditions. These conditions are chiefly the result of deteriorated and dilapidated structures in the waterfront area, environmental contamination, stagnant and depreciated property values and high foreclosure rates. These conditions have challenged redevelopment efforts by both the private and public sectors, including the Agency, in the Dynamite Project Area since its adoption in 1983. By extending the life of the Existing Plan, and the time limits on the payment of indebtedness and receipt of property taxes, the Agency will be able to issue longer-term bonds, effectively increasing the amount of capital available to the Agency for implementing blight alleviating projects.

Reinstating Eminent Domain Authority for Specified Parcels in the Dynamite Project Area

The Agency's authority to acquire property in the Dynamite Project Area through the use of eminent domain expired. Therefore, the Agency is seeking to reinstate its eminent domain authority over certain nonresidential properties (as shown in Exhibit A-1) within the Dynamite Project Area for twelve years from the date of adoption of the 2009 Amendment. Those portions of the Dynamite Project Area where the Agency is proposing to reinstate its eminent domain authority are either blighted or vacant. Although the Agency does not have any intention at this time of acquiring specific properties through eminent domain, such authority may be required at a future time to facilitate redevelopment and the alleviation of blighting conditions. It should be noted that such authority may be necessary to remove problematic easements and deed restrictions, that if not removed, will significantly hinder redevelopment efforts. By amending the Existing Plan now to reinstate eminent domain authority, the Agency will have available all the redevelopment tools necessary to successfully complete redevelopment in the Dynamite Project Area.

DYNAMITE PROJECT AREA & ADDED AREA - EMINENT DOMAIN PARCELS

EXHIBIT A-1



THE PROJECTS AND PROGRAMS

To assist the private sector and the City with redevelopment of the Project Area, the 2009 Amendment would include infrastructure and public facilities projects that may be implemented in the Updated 2009 Redevelopment Plan. In addition to the infrastructure and facility projects that are listed in the draft Plan, the Agency would be permitted to use redevelopment funds to undertake a variety of affordable housing, commercial rehabilitation, and economic development projects and programs in the Project Area as permissible by the CRL.

A summary of the programs and projects anticipated by the Agency is included as Table A-1 on the following page.

REDEVELOPMENT AGENCY OF THE CITY OF HERCULES

PROGRAMS AND PROJECTS Table A-1
HERCULES REDEVELOPMENT AGENCY- 2009 AMENDMENT

PROGRAM	TYPES OF PROJECTS	EXAMPLE PROJECTS - actual projects may include but are not limited to:
<u>Economic Development Program</u>		
Improve and enhance economic base through business attraction, expansion and retention, through continued marketing, tracking, technical business assistance, public/private partnerships and development agreement negotiation	Specific Plan Implementation; Site Assemblage; Community Marketing; Owner Participation Agreements and Disposition and Development Agreements	Land Acquisition and Relocation; Hazardous Materials Remediation; Demolition; Grading & Site Preparation;
Estimated Cost: \$65 million		
<u>Capital Planning Program</u>		
Improve the community through programs that require extensive and long-term financial planning	Sewer Capacity Expansion; Inter-modal Transit Station	
Estimated Cost: \$40 million		
<u>Capital Improvement Program</u>		
Infrastructure		
Improve pedestrian, bicycle and vehicular traffic flows, upgrade utilities and drainage systems, and enhance public safety	Street, drainage and other off-site and on-site improvements	Refugio Creek Improvements; San Pablo Avenue/Route 4 Intersection Improvements; Sewer Lift Station and Force Main; I-80 Off Ramp Improvements; Sycamore Avenue, San Pablo Avenue, Willow Avenue, Franklin Canyon Road, John Muir Parkway and Tsushima Improvements including traffic signals, realignments, intersection improvements, sidewalks, curbs & gutters, medians, street trees & hardscape; EBMUD and other Utility Line Relocations; Water and Sewer Line Improvements; Point Overpass; Willow Avenue Underpass; Utility Relocation & Undergrounding
Estimated Cost: \$70 million		
<u>Public Facilities</u>		
Develop and renovate community facilities and promote recreational opportunities that meet the needs of Project Area residents and businesses	Educational facilities, parks & recreation facilities, public safety and public works facilities	Parking Structures; Rail Stations; Bridges; Water Ferry Terminal; Corporation Yard; Cultural Arts Facility; Wastewater Treatment Facility; Parks & Recreation Facility; Community Center; Wetland Habitat and Creek Restoration
Estimated Cost: \$150 million		
<u>Affordable Housing</u>		
Improve and expand the supply of affordable housing to very low, low and moderate income persons and households	Assisting in development of affordable housing; purchase of covenants to assure long-term affordability restrictions	Land assemblage; construction or rehabilitation of qualified units; silent seconds; down-payment assistance; rental assistance.
Estimated Cost: \$626 million		
<u>Administrative and Planning Program</u>		
Long-term community planning through preparation of Specific Plans and other planning tools; Administrative activities to support redevelopment efforts and a project contingency fund	Financial Reporting; Board Meetings & Agendas; Project Administration; Community Planning	Five Year implementation Plans; Annual Budget and Work Program; Board Agendas; State Controller Report and Financial Statements; Statements of Indebtedness;
Estimated Cost: \$270 million		

Economic Development Program

The Agency anticipates a sizable portion of non-housing revenue from the Project Area to be spent on projects designed to assist property owners with rehabilitating their properties, redesigning and reconstructing obsolete buildings, improving public safety, and other improvements needed to address existing deficiencies identified in Section B of this Report. Such projects and programs will improve conditions in the Project Area and alleviate blight by removing or rehabilitating dilapidated and deteriorated structures, removing conditions that hinder the viable use of buildings or lots, mitigating hazardous waste contamination, and stimulating the area's declined property values.

The preliminary cost of these program activities is anticipated to be \$65 million over the duration of the Updated 2009 Redevelopment Plan.

Capital Planning Program

Because of the scope and complexity of activities required to successfully redevelop the Dynamite Project Area and Added Area components of the Project Area, it will be necessary to undertake extensive long term financial planning. This requirement is based in large part on the need to utilize a variety of funding source, to carefully address issues of contamination as discussed in Section B. Successful application of such long range capital planning will alleviate blight in the Project Area by removing or rehabilitating dilapidated and deteriorated structures, removing conditions that hinder the viable use of buildings or lots, mitigating hazardous waste contamination, and stimulating the area's declined property values.

The preliminary cost of these program activities is anticipated to be \$40 million over the duration of the Updated 2009 Redevelopment Plan.

Capital Improvement Program

Exhibit C of the Plan includes a list of permitted public improvements that may be undertaken by the Agency, as required by Section 33445(b) of the CRL. These and other public improvements address substandard infrastructure conditions in the Project Area. The funds may be used to supplement the City Capital Improvement Program where appropriate.

Infrastructure

Improvements to Project Area public infrastructure are intended to alleviate traffic congestion and improve public safety, remove costly impediments to development, and upgrade infrastructure to contemporary standards in an effort to stimulate private development.

The public infrastructure and public facility projects proposed by the Agency are expected to reduce blighting conditions in the Project Area by removing conditions that otherwise hinder the viable use of buildings or lots and alleviating stagnant and declining property values.

The preliminary cost of these program activities is anticipated to be \$70 million over the duration of the Updated 2009 Redevelopment Plan.

Public Facilities

Public facility improvements and upgrades in the Project Area would benefit the project area and the greater community by improving the City's amenities and stimulating private development. The proposed community facility projects will alleviate blight by, 1) removing or rehabilitating unsafe or unhealthy buildings caused by serious dilapidation and deterioration; 2) removing conditions that prevent or substantially hinder the viable use or capacity of buildings or lots, and 3) increasing nearby property values.

The preliminary cost of these program activities is anticipated to be \$150 million over the duration of the Updated 2009 Redevelopment Plan.

Affordable Housing

The Agency is required by the CRL to set aside at least twenty percent of its gross tax increment revenues into a fund for increasing, improving, and preserving the community's supply of affordable housing. Upon adoption of the 2009 Amendment, this percentage will increase to 30% in the Dynamite Project Area. These

affordable housing funds may be used inside as well as outside the Project Area boundaries. Nonetheless, the Agency expects that most housing set aside funds would be expended within the Project Area, given the extent of affordable housing assistance needed for the area.

Housing fund expenditures will assist the City in implementing the goals and programs set forth in the Agency's affordable housing compliance plan and five-year implementation plan, as well as the Housing Element of the City's General Plan. By law, a minimum of fifteen percent of all housing units constructed in the Project Area must be affordable.

It is anticipated that increasing the number of affordable housing units will alleviate declining property values and indirectly reduce crime rates by providing suitable housing to the segment of the population most at risk for becoming involved in criminal activity.

The preliminary cost of these program activities is anticipated to be \$626 million including bond debt service over the duration of the Updated 2009 Redevelopment Plan.

Administrative and Planning Program

A range of administrative actions will be required over the life of the Plan to continue Agency operations and to fulfill myriad requirements of the CRL. Over the course of the Plan, it is anticipated that further refinements will be required to a variety of planning documents to reflect changing market and societal conditions.

The preliminary cost of these program activities is anticipated to be \$100 million over the duration of the Updated 2009 Redevelopment Plan. A project contingency fund of \$170 million is also included in anticipated costs.

**SECTION B:
DESCRIPTION OF THE PHYSICAL AND ECONOMIC CONDITIONS EXISTING IN THE PROJECT AREA**

CRL Sections 33352(b), 33451.5(c)(1)-(2), and 33333.11(h)(1) require that this Report contain a description of the remaining blight in the Dynamite Project Area and a description of the physical and economic conditions specified in CRL Section 33031 that exist in the Added Area that cause the Added Area to be blighted.

CRL Sections 33030 through 33039 describe the conditions that constitute blight in a redevelopment project area. A blighted area is one that necessitates the creation of a redevelopment project area because the combination of conditions in an area is so substantial as to constitute a burden on the community that cannot be alleviated by private enterprise, governmental action, or both, without redevelopment. CRL Section 33030 defines a blighted area as one that contains both of the following:

1. An area that is predominantly urbanized and is an area in which the combination of physical and economic blighting conditions is so prevalent and so substantial that it causes a reduction of, or lack of, proper utilization of the area to such an extent that it constitutes a serious physical and economic burden on the community that cannot reasonably be expected to be reversed or alleviated by private enterprise or governmental action, or both, without redevelopment.
2. An area characterized by one or more physical condition of blight and one or more economic condition of blight as set forth in subdivisions (a) and (b) of CRL Section 33031.

DESCRIPTION OF THE PHYSICAL CONDITIONS THAT CAUSE BLIGHT

The current statute, Section 33031(a) of the CRL, describes physical conditions that cause blight as follows:

1. Buildings in which it is unsafe or unhealthy for persons to live or work; examples of such conditions include:
 - a. Serious building code violations;
 - b. Dilapidated and deteriorated buildings;
 - c. Buildings suffering from construction vulnerable to serious damage from seismic or geologic hazards; and
 - d. Buildings suffering from faulty or inadequate water or sewer utilities.
2. Conditions that prevent or substantially hinder the viable use or capacity of buildings or lots; examples of these conditions include:
 - a. Lots/buildings suffering from substandard, defective, or obsolete design; and
 - b. Lots/buildings of inadequate size given the present general plan, zoning, or other development standards.
3. Adjacent or nearby uses that are incompatible with each other and which prevent the development of those parcels or other portions of redevelopment project areas.
4. The existence of subdivided lots that are in multiple ownership and whose physical development has been impaired by their irregular shapes and inadequate sizes, given present standards and market conditions.

DESCRIPTION OF THE ECONOMIC CONDITIONS THAT CAUSE BLIGHT

The current statute, Section 33031(b) of the CRL, describes economic conditions that cause blight as the following:

1. Depreciated or stagnant property values.
2. Impaired property values due to hazardous wastes on property where the agency may be eligible to use its authority as specified under the Polanco Redevelopment Act.

3. Stagnant or declining market conditions; examples of this include:
 - a. An abnormally high number of business vacancies;
 - b. Abnormally low lease rates; and
 - c. Abnormally high number of abandoned buildings.
4. A serious lack of necessary commercial facilities such as those normally found in neighborhoods including grocery stores, drug stores, and banks and other lending institutions.
5. Serious residential overcrowding that has resulted in significant public health or safety problems where “overcrowding” means exceeding the standard referenced in Article 5 (commencing with Section 32) of Chapter 1 of Title 25 of the California Code of Regulations.
6. An excess of bars, liquor stores, or adult-oriented businesses that has resulted in significant public health, safety, or welfare problems.
7. A high crime rate that constitutes a serious threat to the public safety and welfare.

According to Section 33030(c) of the current CRL, a blighted area may also be characterized by the existence of inadequate public improvements or inadequate water or sewer utilities.

LEGAL PREREQUISITES FOR THE 2009 AMENDMENT

The CRL requires differing levels of documentation of blighting conditions for the three component parts of the 2009 Amendment. Therefore, Section B of this Report; 1) illustrates how the Added Area meets the legal prerequisites for inclusion in a redevelopment project area, 2) identifies how the Dynamite Project Area meets the legal prerequisites for extension of the Existing Plan by ten years, and 3) describes how portions of the Dynamite Project Area qualify for extension of the time limit to commence eminent domain proceedings.

Adding Territory to the Merged Project Area

In accordance with the CRL, the prerequisites for territory being considered for inclusion in a new redevelopment project area can be summarized into five basic requirements. For the Added Area to be included in the Project it must be able to meet the following “five-part test”:

1. Must be predominantly urbanized;
2. Must have at least one physical condition and one economic condition of blight, or be necessary for the effective redevelopment of the area;
3. The conditions of blight must cause a lack of proper utilization of the area;
4. The improper utilization must be a serious physical and economic burden on the community; and
5. The burden cannot be reversed by private enterprise acting alone, by the public sector acting alone, or by both acting together without the assistance of redevelopment.

Extending the Effectiveness Date of the Existing Plan by Ten Years

Pursuant to CRL Section 33333.10(b), a redevelopment plan may be amended to extend the time limit on the effectiveness of the plan for up to ten additional years beyond the limit allowed by subdivision (a) of CRL Section 33333.6 and to extend the time limit on the payment of indebtedness and receipt of property taxes for not more than ten years from the termination of the effectiveness of the redevelopment plan, only after the agency finds that both of the following conditions exist:

- Significant blight remains within the project area; and
- This blight cannot be eliminated without extending the effectiveness of the redevelopment plan and receipt of property taxes.

Moreover, pursuant to CRL Section 33354.6, when an agency proposes to amend a redevelopment plan to lengthen the period during which the redevelopment plan is effective, the agency shall follow the same

procedure and the legislative body is subject to the same restrictions as for the adoption of a redevelopment plan.

Reinstating Eminent Domain Authority for Specified Parcels in the Dynamite Project Area

Pursuant to CRL Section 33333.2(a)(4), an agency may extend the time limit for commencement of eminent domain proceedings to acquire property within the project area only after the agency finds that both of the following exist:

- Significant blight remains within the project area; and
- Blight cannot be eliminated without the use of eminent domain

It is important to note that extending by ten years the effectiveness date of the Existing Plan for the Dynamite Project Area and reinstating the Agency's authority to acquire portions of the Dynamite Project Area by eminent domain require substantial evidence that "significant" blight remains; however, blighting conditions do not need to be "predominate" in the Dynamite Project Area. Additionally, although the Existing Project Area is a merged project area comprising of both the Dynamite Project Area and Project Area 2, this Report is not required to analyze blight in Project Area 2, as the 2009 Amendment does not propose any amendment to Project Area 2.

BACKGROUND

The City began as the home to CPWC in 1881 and by 1917 the Hercules dynamite production plant had become the largest United States producer of trinitrotoluene ("TNT"). During the mid 1960's the plant transitioned from producing dynamite to fertilizer but the plant later closed permanently in 1977 due to a bitter labor strike and economic factors. Closure of the former dynamite and fertilizer production plant drastically affected the local economy as the plant served as a major employer for local residents. Nonetheless, the Merged Project Area has made significant economic progress and undertaken many redevelopment projects that effectively reduced blighting conditions.

Despite progress made, significant blight remains in the Dynamite Project Area, and certain projects visualized at the time of adoption of the Dynamite Project Area and earlier have yet to be realized. The prime example is the redevelopment and reuse of the Hercules Point and waterfront area of the former CPWC dynamite operations plant. The original Report to City Council for the Redevelopment Plan for the Dynamite Project Area ("Original RTC"), states that Hercules Properties, Ltd. had prepared a development plan for that subarea which would include industrial and research and development facilities, warehousing along the railroad tracks, a marina with recreational facilities, waterfront park (as designated in the General Plan), staff housing ancillary to the industrial uses, and upgrading of flood control facilities.

Over 25 years later, the Agency along with the private sector is still pursuing the development of a 43 acre transit oriented development project in the waterfront area ("Waterfront Project"). Currently, the Waterfront Project is envisioned to have three distinct subareas and be comprised of 1,342 residential units, 133,500 square feet of retail and office space, 134,000 square feet of flex space, inter modal transit center including ferry and bus terminals, and approximately 23 acres of parks, trails, and open space. Planned developments for the waterfront area and Hercules Point are consistent with the City's General Plan ("General Plan"). However, significant constraints to development remain for this area including a railroad line that bisects the proposed site of the Waterfront Project, significant environmental contamination, and the need for complex engineering due to site geology and the shoreline location. The proposed site for the Waterfront Project consists of both blighted and vacant/underutilized parcels which are a burden on the City's public safety resources. Overcoming these constrains will allow redevelopment of the waterfront area which will act as an economic stimulus for the Project Area by creating both temporary and permanent jobs, increasing property values, and improving the City's tax base.

The 2009 Amendment is necessary in order to facilitate implementation of the Waterfront Project and other redevelopment projects envisioned by the proposed Updated 2009 Redevelopment Plan. As noted above, over the last 25 years neither the private sector nor government acting alone have been able to realize project implementation in the waterfront area.

The Existing Plan will expire in year 2026 and the time limit to repay indebtedness with tax increment revenue is 2036 for the Dynamite Project Area. Extending the effectiveness of the Existing Plan and the time limit to repay Agency indebtedness by ten years for the Dynamite Project Area will permit the Agency to issue longer-term bonds and leverage additional proceeds from debt financing for projects which may not be possible without the 2009 Amendment.

Additionally, the 2009 Amendment proposes reinstating eminent domain authority only on certain parcels in the Dynamite Project Area and Added Area that remain blighted or underutilized and where the Agency envisions implementation of redevelopment projects. Those parcels where the Agency seeks to reinstate eminent domain authority do not contain residential uses. Ensuring that the Agency has access to all the tools available through redevelopment will facilitate the Waterfront Project and other redevelopment projects in the Project Area.

STUDY APPROACH & METHODOLOGY

Several data sources were utilized to identify and document the physical and economic blighting conditions in the Project Area including on-site field work by Rosenow Spevacek Group, Inc. (“RSG”), the Agency’s redevelopment consultant. During RSG’s visit to the Project Area in February 2008, meetings were held with City and Agency staff to discuss conditions affecting the Project Area and document blighting conditions in the Dynamite Project Area amenable to a visual survey. Furthermore, RSG researched numerous data sources for information including buildings constructed of unreinforced masonry, crime statistics, vacancy and lease rates, property values, and foreclosure rates.

Due to the prevalence of environmental contamination in the Dynamite Project Area, the Agency retained Willdan Resources Solutions (“WRS”) to conduct an environmental investigation of potential environmental issues existing in the Dynamite Project Area in order to quantify and assess the impacts hazardous waste contamination is having on (re)development. The WRS environmental investigation described in *Physical Blight Evaluation for City of Hercules Redevelopment Agency: Project Area 1 (Dynamite Area)* (“WRS Report”) provides substantial evidence of significant remaining blight in the Dynamite Project Area, demonstrating the need for a ten year extension on the effectiveness of the Existing Plan and the need to reinstate the Agency’s eminent domain authority over certain portions of the Dynamite Project Area.

ANALYSIS OF BLIGHTING CONDITIONS IN THE PROJECT AREA

This section of the Report describes and analyzes the remaining blighting conditions in the Dynamite Project Area and the existing conditions of physical and economic blight in the Added Area. Where applicable, this information is grouped by blighting condition previously described in this Section. Additionally, a summary of the physical and economic blighting conditions by project area and a map of the Project Area identifying those parcels that are blighted, are no longer blighted, or are necessary and essential for the elimination of blight are included at the end of Section B.

Physical Blight

Physical conditions were assessed in terms of the health and safety of persons and the economic viability of development in the Project Area. Table B-1 provides a summary of parcel characterization for both the Dynamite Project Area and the Added Area as determined by RSG’s on-site fieldwork, research, and the WRS Report. Again, the test for the Dynamite Project Area is that “significant” blight remains. Blighting conditions are not required to predominate in order to adopt the 2009 Amendment. The location of the parcel characterizations described in Table B-1 below are shown in Exhibits B-2 and B-3 located at the end of this Section.

CHARACTERIZATION OF PARCELS HERCULES REDEVELOPMENT AGENCY- 2009 AMENDMENT		Table B-1		
	Dynamite Project Area			
	No. of Parcels	Acres	%	
No Longer Blighted	924	339	73%	
Blighted	15	86	18%	
Necessary & Essential	11	41	9%	
Total	950	466	100%	
	Added Area			
	No. of Parcels	Acres	%	
Not Blighted	0	0	0%	
Blighted/Needed for Affordable Housing	3	55.69	100%	
Total	3	55.69	100%	

Source: RSG on-site work, WRS Report, Metroscan

Parcels determined to be physically blighted exhibited one or more condition(s) of physical blight as identified in subsection (a) of 33031 of the CRL. Parcels identified as necessary and essential for the elimination of blight meet the standards prescribed by CRL Section 33333.10(c)(3). That is, parcels that are not blighted but are so necessary and essential to the elimination of the blight that these parcels should be included within the portion of the project area in which tax increment funds may be spent. More specifically, parcels identified as necessary and essential are, 1) adjacent to one or more blighted parcels that are to be assembled in order to create a parcel of adequate size given present standards and market conditions, and 2) adjacent or near parcels that are blighted on which it is necessary to construct a public improvement to eliminate blight.

Unsafe and Unhealthy Buildings for Persons to Live or Work

Pursuant to current statutes of the CRL, the existence of buildings in which it is unsafe or unhealthy for persons to live or work may be caused by serious dilapidation and deterioration caused by neglect, serious building code violations, construction that may be vulnerable to damage from seismic or geologic hazards, and faulty and/or inadequate water and sewer utilities. The presence of such conditions creates added burden on the community and its taxpayers by devaluing neighboring properties and necessitating excessive costs for code enforcement, public safety, and public works services.

Dynamite Project Area

Unsafe and unhealthy buildings within the Dynamite Project Area are primarily located on property owned by Anderson Pacific along the waterfront area. Temporary worker housing was developed to house persons employed by former CPWC that operated the dynamite plant in the City. Although these poorly constructed and neglected structures no longer hold a dominating presence in the Dynamite Project Area as they once did, several antiquated structures do remain in the waterfront area. These structures display extreme signs of deterioration and dilapidation from long-term neglect which have resulted in unsafe and unhealthy conditions for persons to live or work.

Among these structures are three residential units, a former clubhouse, and a Masonic lodge which are located west of Railroad Avenue. These vacant buildings along with the old dynamite plant’s administration building, have been deemed historic and have arrived at their current state as a result of long-term neglect. These structures are generally characterized by a severe lack of weather proofing materials, damaged and deteriorated building materials and roofs, missing foundations, deteriorated eaves, buckling overhangs, and boarded up doors and windows. These structures have existed in a condition of disrepair for many years - some of them even lack a foundation and sit on blocks intended for temporary use only. The conditions present in the historic waterfront area are not only an “eyesore”, but also a health and safety hazard in the community. According to Police Commander Thomas Dolby from the Hercules Police Department, vacant structures located in the waterfront area attract vandals, transients, and other trespassers looking to partake in illegal activities.

In addition to being seriously deteriorated and dilapidated, two of the three residential units and the Masonic lodge are built of unreinforced masonry and are highly susceptible to damage from seismic or geologic hazards. In 2006, the City's Building Department provided an inventory update to the Seismic Safety Commission regarding buildings of unreinforced masonry within the City which had made no advancements in the mitigation process since the previous status report in 2004. The structures noted above were all included in the Building Department report because they are vulnerable to serious damage from seismic or geologic hazards and pose a real threat to the health and safety of persons who live and/or work in the Project Area.



Photo 1

This boarded up and unoccupied home rests on land in the waterfront area of Hercules. The home has a large hole in its roof and is missing its foundation. This home, and other structures in the waterfront area, have remained in seriously decaying state for many years. This property is seriously underutilized and a burden on the community. Vacant buildings can often fall victim to vandals, become inhabited by vagrants, or be utilized for other illegal activities.



Photo 2

This home located in the waterfront area of Hercules is seriously deteriorated and dilapidated and could cause critical injury. Building materials are rotting and the home is missing its foundation. Despite the appearance that the home is being prepared for transport, it has remained in such condition for an extended period of time. Additionally, the property appears to be utilized for storage of commercial vehicles which is not compatible with zoning requirements. The property is underutilized and creates an eyesore in the community, potentially detracting from the value of residences located across the street. This property is intended for inclusion among those properties to be assembled as part of the Waterfront Project.



Photo 3

This structure is significantly deteriorating and will require heavy restoration efforts. Wood materials appear to be rotting and will continue to worsen as the structure lacks weatherproofing materials such as stucco and paint to protect it from the elements. Foliage is ungroomed and has been permitted to grow up to the base of the structure which can present a fire hazard, and may attract vermin posing a health threat. Additionally, this structure poses a threat to young children and vandals who may attempt to enter the property. The building was constructed of unreinforced masonry and, in the event of seismic activity could present a serious physical hazard.



Photo 4

Building materials on this vacant waterfront house are deteriorated and rotting, and the structure is missing its foundation. The home was built to house workers of the former CPWC plant but has suffered from serious neglect over the years. This home is currently a burden on the community because it is on the list of historic buildings and requires significant rehabilitation and/or relocation in order to implement the City's vision for the Waterfront Project,



Photo 5

This former clubhouse is vacant and underutilized and, therefore, more susceptible to vandalism and transient occupancy. Long-term neglect has resulted in deteriorated siding and building materials. It impedes redevelopment efforts and progress of the Waterfront Project which will bring added benefits to the community at large. This burden affects not only the property owner but the entire community. Additionally, most of the windows and doors have been boarded-up due to prolonged neglect, which creates an eyesore within the neighborhood, potentially lowering neighboring property values.



Photo 6

This former CPWC administration building is boarded up and vacant, occupying prime waterfront real estate. Additionally, vacant structures such as this one often attract vandals and persons engaging in other illegal activities. Its presence impedes redevelopment efforts and progress of the Waterfront Project which will bring added benefits to the community at large. This burden affects not only the property owner but the entire community.

Conditions Hindering the Viable Use of Buildings or Lots

Conditions that prevent or substantially hinder the viable use or capacity of buildings or lots is a physical blighting condition. Current statutes of the CRL suggest that these conditions may be caused by buildings of substandard, defective, or obsolete design, or construction given the present general plan, zoning, or other development standards.

Typical conditions that indicate the prevention/hindrance of the viable use or capacity of parcels and/or buildings include:

- excessive lot coverage/inadequate setbacks;
- a lack of parking and/or loading areas;
- inadequate vehicular access;
- buildings being used for purposes for which they were not originally constructed or intended;
- poor building or site layout;
- poorly constructed additions;
- substandard exterior building materials;
- outdoor storage or production;
- substantial garbage/debris/stagnant water present on property;
- inadequate public improvements;
- inadequate sewer/water infrastructure;
- irregularly shaped/ parcels; and,
- inadequately sized parcels.

Dynamite Project Area

The Dynamite Project Area's prime example of this blighting condition is the former Solar Aquacell Wastewater Treatment Plant ("Treatment Plant") located near the corner of Sycamore Avenue and Willet Street and depicted in the aerial photograph below. Although the former Treatment Plant was originally considered an innovative technological advancement, it was later shut down when it failed to provide sufficient treatment of the City's sewage. The Treatment Plant has been partially demolished and removed; however, the sewage treatment ponds (and resultant sludge) and certain improvements and piping remain intact. In essence, the Treatment Plant was originally built based on a flawed design and in its current state remains obsolete.

The 11 acre site is owned by the City of Hercules. Portions of the site are used as a corporation storage yard. Located in an area of mixed-use and changing development, this is no longer an appropriate use for the site. According to Agency staff, future land use plans for the site include a school and associated parks. Properties located at the southwest and northwest are developed for residential use and wetlands are located to the northeast and southeast. The site is underutilized, and the existing Treatment Plant improvements have no feasible reuse. Reinstating of sewage treatment at this site would be incompatible with the adjacent residential development. In order to redevelop the property there would be considerable added costs for disassembling, clearing, and recycling the existing building improvements and environmentally-contaminated sludge. According to the WRS Report, the sewage treatment area must be removed prior to redeveloping the site. This process would include pumping water in the ponds to the Pinole treatment plant, removing and dewatering the sludge, transporting and disposing the sludge at a facility licensed to receive such material, removing and disposing of the physical structure (which may contain lead based paint), and removing and disposing of all piping. Additional obstacles to redevelopment of the former Treatment Plant property (discussed on pages 43-44 of this Report) include environmental contamination and the possible presence of several protected animal species which would require protection or careful relocation.



Aerial Photo 1

It should be noted that the CRL does not exclude one condition from satisfying multiple blighting conditions. For example, the WRS report identifies and describes multiple environmentally-contaminated properties within the Dynamite Project Area. The environmental contamination found at such sites significantly impairs property values and also hinders the viable use of buildings or lots (primarily as a result of deed restrictions constraining more liberal zoning permissible by the City's General Plan). In order to isolate the discussion on environmental contamination to one area of the Report, discussion of how environmental contaminants may be hindering the viable use of buildings or lots is later described in conjunction with impaired property values due to hazardous wastes.

Added Area

All three parcels proposed to be added to the Merged Project Area by the 2009 Amendment suffer from conditions that substantially hinder the viable use of lots.

Sycamore Crossing is currently vacant but was formerly a developed site as part of the CPWC operations. According to City staff, the two parcels comprising Sycamore Crossing were utilized as part of a rail system used for transporting dynamite from the factory to storage locations in the inland canyons along Refugio Valley. Additionally, the site contained a pedestrian tunnel under San Pablo Avenue to facilitate foot traffic to State Route 4. Portions of the site are now covered with approximately twenty-feet of fill material removed from development of surrounding properties. In addition, concrete blocks, which could have been foundation from former munitions bunkers, occupy several locations.

City staff members report that the site has remained vacant and underutilized for some time and the site's disposition necessitates financial assistance from the Agency to make redevelopment viable. Without it, the site is likely to remain undeveloped. In addition to purchasing Sycamore Crossing with funds from the Agency's low- and moderate- income housing fund (affordable housing will be built on-site), additional Agency investment is warranted for the relocation of underground and overhead utilities, removal of a retail deed restriction, and installation of box culverts to negate environmental impacts of development on Refugio Creek which bisects the site.

Relocation of several easements is required prior to development because their current location impedes future development. Specifically, the utility right-of-way along the site's southern boundary is forty-five feet in width and consists of adjacent twenty foot East Bay Municipal Utility District ("EBMUD") and twenty-five foot Pacific Gas & Electric ("PG&E") easements. The EBMUD easement which contains a twenty-four inch water

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transition (main) pipeline will need to be relocated under San Pablo Avenue along with the PG&E 12 kilovolt overhead power line. Additionally, an existing twenty inch sewer line, twenty-four inch force main line, and electrical vault boxes need to be relocated from the Sycamore Crossing property to Sycamore Avenue. Sycamore Crossing is contained within the boundary line as shown below in Aerial Photo 2.



Aerial Photo 2

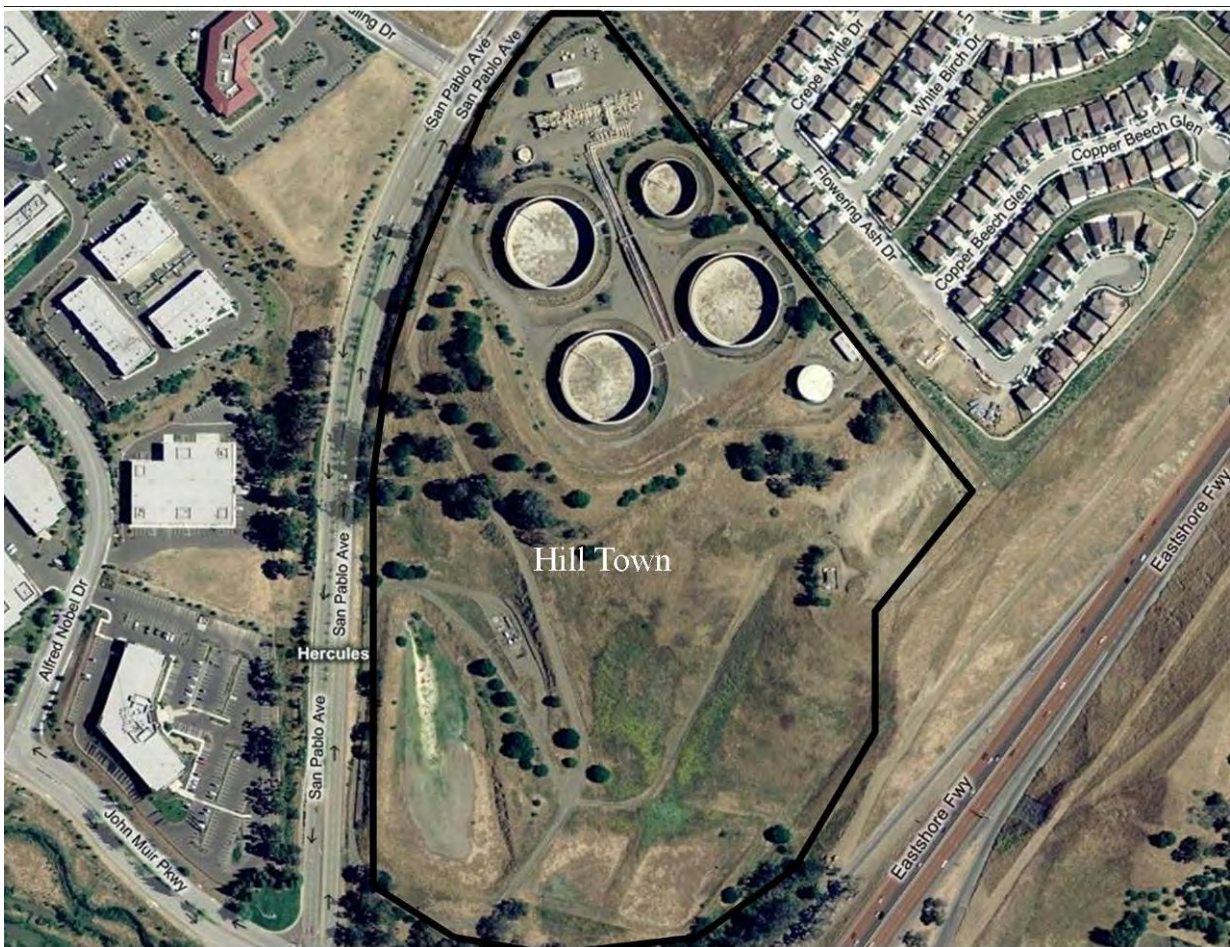
Cost estimates provided by the Agency for the aforementioned projects amount to over \$3.6 million and are provided in detail in Table B-2. These figures do not include approximately \$1.2 million worth of required engineering costs.

AGENCY COST ESTIMATES FOR SYCAMORE CROSSING		Table B-2
HERCULES REDEVELOPMENT AGENCY- 2009 AMENDMENT		
Relocation of Utilities		\$3,225,000
24" Aqueduct		\$1,500,000
Overhead Electrical Line		\$500,000
6" Gas Line		\$250,000
Cable Line		\$100,000
Electrical Vault Boxes		\$75,000
20" Sanitary Sewer Line		\$400,000
24" Forced Main		\$400,000
Removing Deed Restrictions		Currently Unknown
Refugio Creek		\$400,000
Upgrade/Relocation of Box Culverts		\$150,000
Creek Enhancements		\$250,000
Total		\$3,625,000
<i>Source: City of Hercules Redevelopment Agency</i>		

The excessive costs associated with preparing the Sycamore Crossing site for development have significantly hindered redevelopment. Given its location at a main intersection upon exiting/entering Interstate 80 and SR 4, this site would, without such heavy constraints, be serving as a primary gateway for the City. The fact that the site is located in the City's central commercial area and has remained undeveloped demonstrates that the conditions hindering development and the viable use of the site cannot be reversed by private enterprise or

the public acting alone without the assistance of redevelopment. A developer would often be unwilling to purchase and develop such a site because of the uncertainty and potential unforeseen issues relating to the removal of the aforementioned easements. The substantial costs and time commitments associated with removing these constraints has impaired development due to the amount of “up-front” time and money which would be required from a potential developer.

Similar to the site of the former Treatment Plant, improvements on the Hill Town site and proposed plans for redevelopment were incompatible, necessitating significant demolition and removal expenses before redevelopment would be possible. Facilities from the Hercules Pumping Station were a part of the prior development. These facilities were constructed by PG&E to temporarily store and to facilitate transport of low-sulfur fuel oil from the Richmond Chevron Oil Refinery thirty-five miles via the Richmond-Antioch pipeline to PG&E’s former Pittsburg and Contra Costa power plants. This facility consisted of a control building and septic tank, two transformers, a fire water pump building, an equipment pad with pumps and fuel heating units, a facility drainage collection and treatment system, eight above ground storage tanks (“AST”), and one underground storage tank (“UST”). The ASTs contained included: one 5.3 million gallon cutter stock tank, three 13.75 million gallon heated and insulated fuel oil tanks, one 1 million gallon fire water tank, one 36,806 gallon diesel tank, and two 550 gallon diesel tanks for fire water pumps. A 2,000 gallon underground emergency containment tank was the facility’s only UST. Aerial Photo 3 depicts the Hill Town boundary line.



Aerial Photo 3

Demolition and removal of the components of the former Hercules Pumping Station was begun in April, 2008, as a prelude to redevelopment.

Additionally, several easements traverse the property which will require relocation in order to make redevelopment possible. Utility easements at the Hill Town site include: a 30-foot by 50-foot pad for a cellular telephone tower and ground-level equipment located at the northeast portion of the site; a 30-foot utility right-of-way ("ROW") which bisects the site from north to south and consists of adjacent 20-foot EBMUD and 10-foot Conoco Phillips easements; a 65-foot by 390-foot area in the northwest corner of the site that contains two sets of electrical power line towers and an access easement that follows the site's northern boundary which are maintained by PG&E; and, an easement owned by the San Pablo Bay Pipeline Company extending from the San Pablo Avenue entrance at the northwest corner of the site southward for a distance of about 220 feet, and includes a 15-foot pipeline easement and a 60-foot temporary construction easement. These easements complicate redevelopment because they could require relocation to other areas of the property or removal from the property altogether in order to make development possible.

The Hill Town site should be included in the Project Area in order for the Agency to facilitate its redevelopment. Due to the excessive costs associated with decommissioning the pump station facilities, transporting the structures and affected materials off-site for disposal and/or recycling, and remediating environmental contamination (discussed on page 40 of this Report), redevelopment will be much more difficult to achieve than would have been the case without such former development. Including Hill Town and authorizing the use of redevelopment funds will facilitate redevelopment. Without the use of tax increment revenues afforded by the powers of redevelopment, reversing blighting conditions at the Hill Town site will not be economically feasible by the private or public sectors. In its current disposition, the Hill Town site is improperly utilized and is both a physical and economic burden on the community.

Adjacent or Nearby Incompatible Land Uses

Land uses are found to be incompatible when certain properties are not compatible with adjacent or nearby uses which prevent the economic development of those parcels or other portions of the project area and/or present potential health and safety hazards to neighboring parcels. The results of incompatible uses can include noise pollution, unsafe/ unhealthy conditions for neighboring residents, commercial/ industrial traffic through residential neighborhoods, and hindrance of the economically viable use of buildings and lots. Such properties may also exhibit signs of economic blight as various incompatible uses can also result in stagnant property values or impaired investment for adjacent properties.

Dynamite Project Area

As noted above, the former Treatment Plant site, with contaminated sludge, the remnants of the sewage treatment facility, and the current use as a municipal corporate yard are incompatible with the new residential developments located to the northwest and southwest of the site.

Economic Blight

Economic conditions of blight were assessed in terms of their adverse effect on the health and safety of persons living and working in the Project Area and on the economic viability of the Project Area. In order to assess economic blight in the Project Area, data from the WRS Report and other environmental assessments, First American Title Metroscan information service, RealtyTrac, police department, and other resources were collected and analyzed. Economic blight is particularly burdensome on the residents, workers, and patrons of the Project Area because the adverse effects are seldom isolated to an individual parcel, as is often the case with physical blight, and, therefore, have a greater impact on far more persons.

Depreciated or Stagnant Property Values

According to CRL Section 33031(b)(1), depreciated or stagnant property values are conditions that cause economic blight.

Dynamite Project Area

Within the last year the Dynamite Project Area as well as the City as a whole has been one of the hardest hit areas by the ever expanding real estate property value decline and foreclosure crisis.

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Residential property values continue to decline within the Dynamite Project Area and the City. As shown in Table B-3, nearly two-thirds, or 64.9%, of the homes sold within the City between September 2007 and September 2008 were sold for less than the last prior recorded transaction. Of the 33 zip codes within Contra Costa County for which data was collected, Hercules (94547) ranked the seventh highest in the County for properties selling at a loss, above 26 other zip codes. Such wide reduction in sales prices shows that homes within the Dynamite Project Area and the City are declining in value.

PERCENTAGE OF HOMES SOLD FOR A LOSS/1		Table B-3
HERCULES REDEVELOPMENT AGENCY- 2009 AMENDMENT		
City	Zip	Percent Sold for a Loss
Concord	94520	72.5%
Antioch	94509	72.3%
Pittsburg	94565	71.1%
Discovery Bay	94514	70.2%
San Pablo	94806	68.7%
Richmond	94801	66.7%
Hercules	94547	64.9%
Richmond	94804	64.0%
Rodeo	94572	63.5%
Concord	94519	60.3%
Richmond	94803	59.1%
Pinole	94564	56.8%
Richmond	94805	55.4%
Concord	94521	55.2%
Concord	94518	55.0%
Pacheco	94553	48.9%
San Ramon	94582	47.0%
Crockett	94525	44.9%
Pleasant Hill	94523	37.4%
Walnut Creek	94597	34.7%
Calyton	94517	32.9%
San Ramon	94583	30.1%
Danville	94506	27.9%
Walnut Creek	94596	26.1%
El Cerrito	94530	25.3%
Danville	94526	23.5%
Walnut Creek	94598	21.4%
Lafayette	94549	16.7%
Alamo	94507	14.3%
Walnut Creek	94595	13.7%
Moraga	94556	13.0%
Orinda	94563	10.7%
Diablo	94528	0.0%

/1 Based on data collected for September 2007 through 2008.
Source: SFGate Data Center; Information Provided by Zillow

Additionally, 60% of the buildings within the Dynamite Project Area were built within the last 5 years, meaning that they were initially purchased at or near the peak of the market. For this reason, the vast majority of these homes have lost a significant amount of their value since they were first constructed and sold, which is evident in Table B-3 above. In fact, many homeowners in the City are “underwater” on their mortgage. Being underwater refers to homeowner’s who owe more on their mortgage than the home is currently worth.

Within the City, 35.8% of homeowners are in this situation, according to data compiled by the San Francisco Chronicle’s SFGate Data Center. Hercules has the fifth highest percentage of homeowners underwater when compared to all other zip codes within the County. Not only do a high number of homeowners who are underwater signal a significant decrease in property values, but it also indicates potential for significant mortgage defaults.

Foreclosures have a tremendous adverse impact on the real and perceived value of residential property. In recent data published by RealtyTrac, one of the nation’s leaders in tracking foreclosures, California was the fourth highest state in terms of the number of foreclosures per housing unit. Furthermore, Contra Costa County is one the most impacted counties in the State when it comes to foreclosures. The following tables provide a summary of foreclosure data collected for the Dynamite Project Area, the City, and surrounding communities. This information includes current foreclosure rates, recent rate of foreclosures becoming bank-owned properties, and indicators for future foreclosures.

Table B-4 shows that the rate of foreclosures in the Dynamite Project Area and the City is significantly higher than the County and State. Specifically, the Dynamite Project Area has a foreclosure rate which is more than 1000% higher than the rest of the County and 1300% higher than the State. DataQuick, another leading source for real estate data, estimates that of homeowners in default, only about 20 percent emerge from the foreclosure process by bringing their payments current, refinancing, or selling the home and paying off what they owe. A year ago it was about 46 percent. Based on this information, the Dynamite Project Area and the City will continue to exhibit a significantly high number of foreclosures in the future, which may continue to worsen as indicated by the drastic reduction in the percentage of homeowners who are able to save their home from foreclosure.

RESIDENTIAL FORECLOSURE RATES/1		Table B-4
HERCULES REDEVELOPMENT AGENCY- 2009 AMENDMENT		
Location	Foreclosure Rate	
Dynamite Project Area	1 in 17 households	
City of Hercules	1 in 21 households	
Contra Costa County	1 in 184 households	
California	1 in 224 households	
/1 Based on data available for November & December 2008.		
<i>Source: RealtyTrac and ESRI Business Analyst</i>		

Table B-5 shows that the Dynamite Project Area and the City also have an excessively high number of homes which go through the entire foreclosure process and revert to the lien holder. Table B-4 above presents households which are in some stage of the foreclosure process. Table B-5 shows the number of homes which are bank-owned. In the Dynamite Project Area, during the third quarter of 2008 (July 1-September 30), 17.7 in every 1,000 homes within the project area completed the foreclosure process and reverted to the bank. Of the 38 zip codes within the County, for which data was collected, the Dynamite Project Area would have ranked as the eighth highest, ahead of thirty other zip codes. Additionally the Dynamite Project Area had a far higher rate of homes becoming bank-owned than the City, where 12.7 homes per 1,000 became bank-owned. These statistics indicate that not only are residential properties within the Dynamite Project Area falling into the foreclosure process, but a significant proportion of homeowners are unable to correct these delinquencies and as a result are losing their homes.

NO. OF FORECLOSURES PER 1,000 HOMES		Table B-5
HERCULES REDEVELOPMENT AGENCY- 2009 AMENDMENT		
City	Zipcode	Foreclosures per 1,000 homes
Pittsburg	94565	30.5
Antioch	94531	27.7
Richmond	94801	27.4
Antioch	94509	25.3
Oakley	94561	24.7
San Pablo	94806	22.5
Concord	94520	20.8
Dynamite Project Area		17.7
Discovery Bay	94505	17.7
Brentwood	94513	16.8
Richmond	94804	15.9
Rodeo	94572	14.8
Byron	94514	13.1
Hercules	94547	12.7
Pinole	94564	10.5
Concord	94519	10.3
El Sobrante	94803	10.1
Richmond	94805	10.1
Concord	94521	7.6
Concord	94518	7.5
Martinez	94553	5.6
San Ramon	94582	4.6
Walnut Creek	94597	3.8
Pleasant Hill	94523	3.7
Walnut Creek	94596	3.3
San Ramon	94583	3.2
Clayton	94517	2.2
Walnut Creek	94598	1.8
Danville	94506	1.6
El Cerrito	94530	1.3
Alamo	94507	1.3
Orinda	94563	1.1
Danville	94526	1.1
Lafayette	94549	0.9
Moraga	94556	0.6
Walnut Creek	94595	0.3

Source: SFGate Data Center; Data provided by DataQuick Information Systems

Not only is the Dynamite Project Area currently being adversely impacted by foreclosures, but there are multiple indicators that the Dynamite Project Area will continue to be gravely impacted at a greater level than the majority of communities in the County.

The United States Department of Housing and Urban Development (“HUD”) as part of its Neighborhood Stabilization Program published foreclosure risk statistics by census block group in the fall of 2008. Table B-6 shows HUD’s estimated foreclosure abandonment risk score for communities closest to the Hercules. The City and the Dynamite Project Area have higher risk scores than over two-thirds of its neighboring communities. HUD calculated risk scores based on multiple factors including; home price decline, vacancy

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rate, unemployment rate, percentage of high-cost sub-prime loans, and predicted 18-month foreclosure rate. The high risk scores for the Dynamite Project Area and City are further evidence that high foreclosure rates and depreciated property values are not likely to reduce in the Dynamite Project Area in the near future.

FORECLOSURE ABANDONMENT RISK SCORE		Table B-6
HERCULES REDEVELOPMENT AGENCY- 2009 AMENDMENT		
Community	Risk Score (Max 10)	
San Pablo	8.41	
Richmond	8.10	
Pinole	6.71	
Dynamite Project Area	6.00	
Hercules	5.95	
Unincorporated County	5.83	
Concord	5.66	
El Cerrito	4.57	
Martinez	4.51	
Clayton	4.50	
Orinda	3.44	
Moraga	3.31	
Walnut Creek	3.06	
Lafayette	1.76	
<i>Source: US Dept of Housing & Urban Development</i>		

Table B-7 shows the percentage of high-cost sub-prime loans within the Dynamite Project Area and the City in comparison to neighboring communities in the County; both the Dynamite Project Area and the City out rank most of their neighbors. High-cost sub-prime mortgages are a major catalyst in the current foreclosure crisis. Due to the high concentration of these types of loans in the Dynamite Project Area and the City, it is conceivable that residential foreclosures will continue to occur at a significant rate.

HIGH-COST SUB-PRIME LOANS^{1/}		Table B-7
HERCULES REDEVELOPMENT AGENCY- 2009 AMENDMENT		
Area	Percent of High-Cost Sub-Prime Loans	
San Pablo	32.19%	
Richmond	29.74%	
Project Area	20.97%	
Pinole	20.89%	
Hercules	19.36%	
Concord	19.11%	
Unincorporated County	16.94%	
Martinez	12.20%	
Clayton	10.43%	
El Cerrito	9.49%	
Walnut Creek	6.29%	
Orinda	3.92%	
Lafayette	3.89%	
Moraga	3.75%	
<small>1/ Federal Reserve Home Mortgage Disclosure Act (HMDA) data on percent of all loans made between 2004 and 2006 that are high cost at the Census Tract Level</small>		
<i>Source: US Department of Housing & Urban Development</i>		

A serious implication of foreclosures is the “spillover” effect on neighboring properties. The spillover effect is when surrounding property values decline as a result of being located adjacent to or nearby a foreclosed property. In a report published by the Center of Responsible Lending, the spillover effect is not only described, but quantified as well. According to the report, approximately 7.5 million homes in California will lose a combined \$60.6 billion of market value because of their proximity to a foreclosed property. These estimates are calculated based on published research that a home foreclosure lowers the value of nearby single-family homes by an average of 0.9 percent.

The estimated market value loss calculated by this study for the County is staggering. According to their calculations, 201,419 homes in the County will lose \$1.47 billion in market value as a result of being located near foreclosed properties. While the study did not specifically identify the impact on the City of Hercules or the Dynamite Project Area, demographic research for this Amendment has shown that the Dynamite Project Area contains 848 housing units. Applying a factor based on the calculated loss for the County and the number of homes in the County, the approximate impact of foreclosed properties in the Dynamite Project Area could be \$6.2 million of diminished market property value resulting from the spillover effect from foreclosed properties.

In a separate article published by the Center for Responsible Lending the impact of foreclosures is described in the following manner:

“Foreclosures pose serious problems that go well beyond the families immediately at risk for losing their homes because the negative spillover effects of these foreclosures are substantial: property values are dropping by billions of dollars, crime is up in high-foreclosure communities, cities are losing their tax bases, and millions of Americans who depend on a robust housing market are losing jobs and income. School districts, police departments, and local neighborhoods do not have the capacity to deal with the burdens associated with rising foreclosures. Therefore, avoiding unnecessary foreclosures is urgently needed, not only for the sake of the families immediately impacted, but for the good of their neighbors, communities, state and local governments, and the housing market and the economy nationwide.”

The City’s foreclosure problem is a serious economic burden for property owners and the Agency as a result of lost revenues and the increased need for public services.

Property Values Impaired by Hazardous Wastes

Current statutes of the CRL provide that impaired property values, due in significant part to hazardous wastes on property where the Agency may be eligible to use its authority under the Polanco Act, is an economic condition that causes blight. According to J.C. Norby & Associates, a professional real estate appraisal company, case histories document devastating consequences for many who have purchased, invested in, or made loans for real estate impaired by chemicals and toxic compounds, and that in many cases, the cost of environmental remediation has exceeded a property’s market value. Furthermore, environmental contamination can not only substantially increase the costs of redevelopment as a result of mitigation and cleanup, but can also drive down surrounding property values as a result of the negative stigmatization and decreased marketability associated with contamination.

Additionally, many real estate developers or other private sector investors are unwilling to pursue a project on a site with existing hazardous waste contamination, no matter how low initial cost estimates for remediation may be, because of risk due to potential unforeseen contamination that could be uncovered during the cleanup process. Unforeseen contamination could add significant costs and time to a project, or make it unfeasible, thus providing too great of a risk to most developers or investors. In order to make these sites feasible for redevelopment, the Agency may need to acquire the site and provide it to the developer/investor at a discount or bear the cost of remediation and sell at market rate.

Due to the operational practices of the industries that located within the City during earlier eras, much of the Dynamite Project Area and Added Area suffer from heavy environmental contamination.

Dynamite Project Area

In order to quantify and assess the impacts hazardous waste contamination is having on (re)development in the Dynamite Project Area, the Agency retained WRS to conduct an environmental investigation of potential environmental issues existing within the Dynamite Project Area. After thorough reconnaissance of historical and regulatory data, staff interviews, other research, and sampling and laboratory analysis of environmental media, WRS identified seven areas of concern within the Dynamite Project Area for containing environmental contaminants. The results of their investigation, which are documented in the WRS Report, provide sufficient evidence of hazardous waste contamination in five areas located throughout significant portions of the Dynamite Project Area. The remaining two additional areas of concern are suspected to have contamination issues based on historical uses and past records, however, WRS was not granted permission to sample at those sites. The seven areas of concern for hazardous waste contamination include:

1. Hercules Point and Surrounding Sediments
2. Pond 3 and Additional Potential Process Ponds
3. City of Hercules Corporation Yard
4. BART Replacement Parking Facility
5. California Red-Legged Frog Habitat Area
6. Carone Brothers Property
7. California Department of Transportation Lot ("CA DOT")

A map of the Dynamite Project Area illustrating the location of each of these seven sites is provided on the following page (Exhibit B-1).

DYNAMITE PROJECT AREA - PARCELS CONTAMINATED WITH HAZARDOUS WASTE

EXHIBIT B-1



Note: The Carone Brothers and Cal-Trans sites are assumed to contain hazardous materials based on current use and data research. Access to these sites were not granted and therefore the presence of contamination can not be physically verified.

According to the WRS Report, the level of impact environmental issues may have on future development and redevelopment varies on the land use being proposed. However, in all cases remediation needs present added upfront costs, thereby creating a significant financial burden to land owners and a hindrance to (re)development. All cost estimates for the remediation of environmental issues are drawn from the WRS Report based on currently available information and probable regulatory requirements for the land uses allowed by the City's General Plan. It should be noted that the cost estimates provided by WRS are subject to change based on further specific testing and remedial plans. Understanding potential costs for required remediation is important for drawing the nexus between blight and the inability of the private and public sectors to reverse the burden without the assistance of redevelopment. As such, these issues are explored along with a summary of the findings contained within the WRS Report for each of the five areas where environmental contamination is a known problem. Unfortunately, WRS was not given permission from land owners to take samples at two sites where environmental contamination is suspected (Carone Brothers Property and CA DOT). However, based on historical uses and a thorough review of historical documentation, the WRS Report concluded that these properties may also suffer from hazardous waste contamination.

1) Hercules Point and Surrounding Sediments

This area contains the one million square feet of offshore property in San Pablo Bay that is incorporated within the Dynamite Project Area and was an integral part of CPWC's operation. The area contained a loading dock, large, floating roof, petroleum storage tank, and a holding pond.

Due to a lack of access to the Hercules Point, WRS did not collect any samples on the point. Nonetheless, the area is deed restricted due to known hazardous wastes contained in the soils. As a result, the following restrictions are imposed on future development and use of the Hercules Point:

- Restricted to commercial or industrial use
- Hercules Point shall not be used in such a way that will disturb or interfere with the integrity of any containment or monitoring system
- No disturbance of the soils such as excavation or drilling water wells shall be performed without required permits and notification of the California Department of Toxic Substances Control ("DTSC") and any impacted soil brought to the surface by excavation shall be managed as hazardous waste
- DTSC or its designated agents shall have access to the property for the purpose of inspection, surveillance, or monitoring, or other purposes necessary to protect public health or safety and the environment

The primary issue surrounding blight and the Hercules Point and surrounding sediments is an incompatibility between the uses allowed by the City's General Plan and zoning ordinances, and the deed restrictions that exist on certain properties in the area. Remediation to a level to allow removal of these deed restrictions can amount to added costs to the land owner in order to develop the property into a viable use permissible by the General Plan. According to the City's Land Use and Zoning Map, Hercules Point and surrounding sediments are designated as waterfront commercial and public open space. The General Plan permits development of a variety of commercial, caretaker/manager housing, public and quasi public, and accessory uses in the waterfront commercial zone. Much of the area is likely to be required to be set aside for public access or to preserve wetlands adjacent to San Pablo Bay and a portion of the area may be developed for commercial uses to provide goods and services to visitors of the public access areas.

Because WRS was not granted permission to collect samples on Hercules Point, it evaluated the remedial investigation and feasibility studies for remediating contamination that were conducted in 1991 in order to determine potential residual contamination. WRS concluded that the Hercules point and associated sediments are impacted with heavy metals and petroleum hydrocarbons and that arsenic and lead exist above residential standards in surface soils outside of areas previously remediated. The WRS Report concludes that the current deed restrictions may not be compatible with redevelopment of this land and to remove or change the deed restrictions will require an extensive and likely costly process.

WRS identified the following activities as prerequisites for the Hercules Point to be used as open space/park:

- Site Investigations into remaining contamination for portions of Hercules Point and surrounding sediments not planned for commercial/industrial use because levels of arsenic, mercury, and lead may exceed non-commercial criteria;
- Conduct a risk assessment to determine the appropriate cleanup levels for future land uses;
- Develop a remediation plan for planned land uses in consultation with DTSC;
- Conduct remedial activities outlined in the DTSC approved remediation plan; and
- Petition to DTSC for removal/modification of deed restrictions upon successful remediation.

The value of the contaminated Hercules Point and offshore properties is significantly hindered due to the estimated costs to remediate the properties before non-commercial uses can be implemented. The WRS Report estimates, based on available information and probable regulatory requirements for the land uses allowed by the City's General Plan, the costs for Consulting Services, Surveys, Analytical Testing, Excavation and Offsite Disposal, and Wetland Mitigation of the Hercules Point and surrounding sediments to be \$1,700,000-\$5,970,000. These activities would constitute a significant burden on the land owner because of the extraordinary costs associated with environmental cleanup in order to transform the waterfront area into what is envisioned by the community in the Waterfront District Master Plan.

2) Pond 3 and Additional Potential Process Ponds

This area includes Pond C (also known as "Duck Pond"), Pond 2, Pond 3, and the channel from Pond C to Refugio Creek. Topographic maps and historical aerial photographs indicate a possible connection between Pond C, the pond located east of the City of Hercules Corp Yard (Pond 2) and wetlands area previously remediated as the Gelsar Site.

WRS conducted two rounds of sampling in the three ponds and channel. A variety of compounds were detected including petroleum products in all three water bodies. Sediment samples collected in Pond 3 revealed that it contains polychlorinated biphenyls (PCBs), elevated levels of lead dinitrotoluene (DNT), TNT, trinitrobenzene (TNB), and tetryl which suggests that waste materials from CPWC were deposited in the pond. Furthermore, this may be the source of elevated levels of explosives found in the ground water beneath the City Corp Yard. Because Pond 3 may have associated wetland areas and due to the presence of chemical contaminants, any remediation efforts would require wetland delineation, permitting, and subsequent wetland mitigation and restoration of the disturbed areas in accordance with State and Federal clean water requirements.

Further compounding the complexity of these sites is the potential presences of protected species such as the California black rail, California red-legged frog, and Western pond turtle. Before any redevelopment activities could occur in the area, protocol surveys would be required to determine if these species are present and if, positive, additional costs for required protection precautions would be required.

WRS concluded that these areas could require dredging and/or dewatering and exaction to remove sediments from Pond 3 and that any disruption of Pond 3 may require wetlands mitigation and restoration. The estimated cost for consulting services, surveys, analytical testing, dredging, sediment disposal, and wetland mitigation is estimated at \$915,000- \$1,650,000. These costs reduce the value of the land and generate a significant burden to the land owner that make surrounding development a more challenging endeavor than would exist in absence of the known environmental contaminants.

3) City of Hercules Corporation Yard

This property was previously described under the physical blight section of this Report for having conditions that substantially hinder the viable use of lots due to the presence of partially remaining Treatment Plant facilities and infrastructure. Operations at the Treatment Plant were discontinued in 2002. Other former uses of the site included a vehicle parking and light maintenance yard operated by West Contra Costa Transportation Agency where minor mechanical work was performed. A leaking UST used by the transportation agency has resulted in significant quantities of petroleum products in the soil and groundwater. The site, which is currently used as a City storage yard, suffers from impaired property value due to hazardous soil and groundwater contamination.

According to Agency staff, the West Contra Costa Unified School District is evaluating the need for an additional school in the City of Hercules and has identified the Corporation Yard as a likely site. However, an evaluation of on-site contaminants and clean up requirements from previous uses has begun and will be factored into the purchase price of the property, thus lowering its value. As an interim use, the City is planning to install a park and playing fields that could at least partially remain once a school is built. Should it be determined that a school will not be located at the site, the City will evaluate other possibilities including mixed use commercial residential that would be compatible with the existing neighborhood.

Accord Engineering Inc. investigated the City of Hercules Corporation Yard in 2005, for its suitability as a new school site. The results of their investigation identified the need for a formal wetland delineation of the area surrounding the City of Hercules Corporation Yard before engaging in development activities and an ecological assessment to address potential impacts of development to the wetland area. Additionally, the investigation uncovered that, 1) the property's soils are contaminated with petroleum hydrocarbons and heavy metals and that levels of arsenic and lead exceed residential criteria, and 2) groundwater onsite is contaminated with barium, cadmium, chromium, cobalt, copper, lead, nickel, and zinc, and contains high concentrations of explosive compounds and petroleum hydrocarbons. WRS recommended further evaluation of the risks associated with possible significant levels of contaminants being discharged into the wetland areas from this site.

Several protected species may also be present in the vicinity of the City of Hercules Corporation Yard and will require protocol surveys to confirm or deny the presence of the California black rail, California red-legged frog, and the Western pond turtle. If any of these species are present in the area, consultation with certain federal and/or state agencies will be required to determine protection requirements prior to redevelopment activities. Again, significant remediation and protection requirements that could be necessary prior to redevelopment can lower this property's value and constitute burden on the part of the property owner that would not exist absent these conditions.

Additionally, similar to the Hercules Point, a major contention for blight at this site surrounds the incompatibility between land uses allowed by the City's General Plan (residential/mixed use) and contamination exceeding maximum thresholds for planned futures use.

Total costs for Consulting Services, Surveys, Analytical Testing, Soil Removal and Offsite Disposal, Construction of Groundwater Containment System, and Sewage Plant Cleanup were estimated by WRS to be approximately \$435,000 - \$890,000. These costs reduce the property's value and are a significant burden on the land owner. Additionally, the hazardous materials present onsite can lower the property's marketability since contamination exceeds maximum thresholds for uses allowed by the General Plan (residential/mixed-use).

4) BART Replacement Parking Facility (Hercules Transit Center)

To facilitate redevelopment of the Dynamite Project Area, the present Hercules Transit Center (also known as BART Park-n-Ride) parking area, located at the northeast corner of San Pablo Avenue and Sycamore Avenue, is proposed to be relocated east of Interstate 80 exit loop which will allow for development of the New Town Center project- a commercial/residential mixed-use development. The site for the new Hercules Transit Center has been used for years as a construction debris dumping site. Although a majority of the area was used for clean fill by the City, the site has also been subject to unregulated dumping of building debris which has resulted in an estimated 9,000 cubic yards of above-grade materials.

Soil samples were collected and analyzed for chemicals of concern from this site by WRS in order to characterize the materials for reuse and/or offsite disposal. Results of the WRS soil samples indicate that while elevated levels of diesel and motor oil exist at this site, none of the levels detected constitute the debris or soil as hazardous waste. Nonetheless, WRS concluded that due to sampling results, reuse of debris and soil from this site as clean fill for the onsite project is not possible and the debris will need to be taken offsite as either offsite fill or for disposal. This requirement presents additional costs to the property developer which amounts to approximately \$135,000-\$545,000.

5) California Red Legged Frog Habitat

This site incorporates the area north of Willow Avenue, inside the Interstate 80 off ramp and is identified by the California Natural Diversity Data Base as California red-legged frog ("CRLF") (a California species of special concern) habitat.

WRS sampled sediments from the CRLF habitat and discovered elevated levels of petroleum hydrocarbons and metals that could pose a risk to the CRLF. Although further investigation is needed, upstream sources of the contamination may be a continuing issue and require mitigation to prevent additional contamination.

Development restrictions, requirements, and special mitigation and CRLF habitat protections will be imposed on development in this area as result of the presence of the CRLF. Development restrictions and mitigation requirements will present added challenges to future development of the site. WRS estimates the total costs for consulting services, surveys, CRLF relocation, and mitigation bank usage to be \$100,000- \$150,000.

6) Carone Brothers Property

This property is located south of Willow Avenue at the eastern end of the Dynamite Project Area. Historically the property has been used for storage and maintenance of heavy equipment and vehicles used for road/bridge construction.

WRS could not obtain permission from current owners to sample the property and therefore, there is a lack of sufficient data to provide detailed evaluation of the environmental conditions of the site. Nonetheless, according to the California Leaking Underground Storage Tank Registry records, this site may contain at least one Leaking UST that has yet to be remediated. Visual inspection of the property from the public right-of-way indicates that soil may be impacted from long-term use of petroleum products on site and sampling collections taken in the down gradient stream channel revealed petroleum products that may have originated from the Carone Brothers Property. Based on this information, the property's soil is likely contaminated by petroleum products at a minimum, and possibly by solvents and other contaminants.

WRS assumed the following when developing cost estimates for environmental remediation of the Carone Brothers Property: 1) based on the nature of operations conducted on site, anticipated petroleum contamination of the soil over 25%-50% of the site; and 2) assumed a low estimate of one UST and a high estimate of three USTs on site requiring removal. Based on these assumptions, the total estimated cost for consulting services, analytical testing, excavation and offsite disposal, and UST and petroleum contaminated soil remediation amounts to approximately \$170,000 to \$330,000. Again, the cost associated with environmental remediation negatively impacts the value of not only the contaminated property but can also devalue surrounding property values which creates a significant burden on the community.

7) California Department of Transportation Lot ("CA DOT")

The CA DOT site is located adjacent to the Carone Brothers Property on the north side of Willow Avenue and has been used for storage and maintenance of CA DOT equipment.

WRS could not obtain permission to sample at this site, therefore insufficient data exists to conduct a detailed evaluation of environmental contamination. Furthermore, no existing analytical data is available regarding possible hazardous waste contamination. Nonetheless, the property is listed by LUST to have at least one UST that is or has leaked in the past and due to the nature of onsite operations, WRS suspects petroleum releases to surface soils that may require cleanup pending future land uses.

WRS has estimated potential costs for remediation efforts to redevelop the site for future uses. Due to the nature of the operations and the site's listing in the LUST registry, WRS has assumed that 5%-10% of the onsite soil will require excavation and removal because of petroleum contamination and that one to three USTs will require removal prior to redevelopment activities.

According to the WRS Report, the total estimated costs for consulting services, analytical testing, excavation and offsite disposal, UST removal, and petroleum contaminated soil remediation for the CA DOT are approximately \$150,000 to \$290,000.

WRS estimated the total cost of environmental remediation activities in the Dynamite Project Area to between \$3,605,000 and \$9,825,000. While this represents a significant cost for pre-redevelopment activities, actual costs are subject to additional specific testing and remedial action plans.

Added Area

The Hill Town site, home to the Hercules Pumping Station, was originally constructed by PG&E in the mid 1970's as a station to temporarily store low-sulfur fuel oil delivered from the Richmond Chevron Oil Refinery. The Hercules Pumping Station then pumped the oil to the Richmond-Antioch pipeline for use at PG&E's former Pittsburg and Contra Costa power plants. In order to evaluate the property for a potential sale, PG&E

commissioned a Phase I environmental site assessment. The final Phase I report was prepared by Uribe & Associates and completed in April of 1994. Phase I results indicated that there was no evidence of environmental impacts attributable to the Hercules Pumping Station (other than a release at Hastings Slough which had been previously remediated). Nonetheless, the Phase I report did acknowledge potentially unidentified environmental liabilities associated with the inability to visually confirm that pipeline leakage was not occurring, limitations stemming from sensitivity of test procedures on pipeline integrity tests, and the lack of tank monitoring or integrity data to evaluate the potential for leakage from the ASTs and USTs located onsite. In 2000, PG&E engaged Geomatrix Consultants to perform a Limited Phase II environmental site assessment in order to develop a complete understanding of the environmental liabilities and potential remedial costs associated with past operations at the site. Geomatrix released its Phase II report for the Hill Town site which concluded that localized soil may be impacted by petroleum hydrocarbons compounds and that if the Hill Town site were to be redeveloped with significant regarding, limited soil removal and off-site disposal could be required.

Subsequently, Santa Clara Valley Housing Group (“SCVHG”) (now owner of the Hill Town property) hired Terrasearch, Inc. to conduct an evaluation of the original findings presented in the Phase I and Limited Phase II reports. In its evaluation letter of January 27, 2004, Terrasearch concluded that most of surficial soil beneath the AST area and the impound basin area are impacted with total oil and grease and diesel petroleum-hydrocarbons. Based on these reports, Terrasearch estimated that petroleum hydrocarbon contamination varies from one to three feet beneath these areas. Although, analytical data indicate detections of petroleum constituents in some soil and groundwater samples, the extent of affected soil and/or groundwater at the Hill Town site has not been fully defined since samples were not collected across the entire property.

Because actual remediation costs could not be determined without testing the entire Hill Town property, for the purpose of its remedial cost evaluation, Terrasearch estimated that 10% to 30% of the areas evaluated (tank farm and holding basin) may be impacted with petroleum hydrocarbons at concentrations greater than the environmental screening levels for the intended future land use for this site (residential development) as set by the California Regional Water Quality Control Board (“CRWQCB”). Terrasearch estimated the cost of site remediation for the Hill Town property at \$520,000 to \$1.6 million. The Terrasearch report acknowledged that these costs could vary once the tanks and associated piping are removed. Furthermore, this cost estimate does not include the cost of decommissioning the tanks and associated piping nor the remediation of groundwater. Although it is not anticipated that groundwater remediation will be required since the detected levels of contaminants were less than environmental screening levels, Terrasearch estimated remediation costs to be in the amount of \$150,000 to \$200,000 in the event that the CRWQCB should require it.

According to an environmental site assessment¹ for the Sycamore Crossing site there is no evidence of a release of hazardous materials. However, evidence of possible CPWC work activities at Sycamore Crossing include concrete debris, which may have been foundation from former munitions bunkers. Additionally, site reconnaissance identified approximately 20-ft of fill material from development of surrounding properties on the western portion of the site.

Inadequate Sewer Capacity

The Project Area is currently served by the Pinole-Hercules Water Pollution Control Plant (“WPCP”) which has provided sewer treatment to the area since it was built in 1956. On March 14, 2007, the California Regional Water Quality Control Board adopted a new National Pollution Discharge Elimination System (“NPDES”) Permit for the WPCP. Due to new NPDES requirements, future plans for development of the areas served by WPCP, and the condition of the plant, upgrades are mandatory. The existing WPCP was designed for an average dry weather flow (“ADWF”) of 4.06 million gallons per day and peak wet weather flow (“PWWF”) of 10.3 million gallons per day with five-day biochemical oxygen demand of 162 milligrams per liter and total suspended solids of 167 milligrams per liter. Except for the ADWF, all of the other parameters have been exceeded at the WPCP.

¹ Phase I and Phase II Environmental Site Assessment Parcels 404-020-057-0 and 404-020-058-8, Treadwell & Rollo, August 6, 2007.

Currently the City has identified two options for increasing the City's water-treatment capacity. Option 1 would require modernization and expansion of the WPCP at a cost of up to \$150 million. Option 2 would have the City leave the WPCP completely and all of the City's waste would be sent to the West County Wastewater District facility located in the City of Richmond. Option 2 is anticipated to cost up to \$115 million to implement.

Without the expansion of the City's wastewater treatment capacity, planned development in the City and Project Area will be impacted and may become infeasible. Additionally, due to the extraordinarily high cost of the needed improvements, the City is unable to make the necessary upgrades. Although tax increment financing alone could not pay for the necessary improvements, tax increment may be needed to fund a portion of the improvements related to service the Project Area. For this reason the 2009 Amendment to extend the time limit on the payment of indebtedness and the receipt of property tax increment for an additional ten years in the Dynamite Project Area is necessary. The ten-year extension will expand the Agency's financial capacity that may provide a portion of the funds necessary to increase wastewater treatment capacity and allow for continued development and elimination of blight in the Project Area.

Summary of Blighting Conditions in the Added Area

The Added Area consists of three parcels making up two future development sites, Hill Town and Sycamore Crossing. One hundred percent of the Added Area is blighted. Previously described in this Section are the physical and economic conditions impeding redevelopment on these two properties. Including Hill Town and Sycamore Crossing in the Project Area will enable the Agency to utilize the tools made available to it through the powers of redevelopment to facilitate and accelerate the redevelopment process. The former PG&E fuel storage and pumping station, and pipeline located at Hill Town have not been used to transport fuel oil and cutter stock since 1982. The property has remained dormant for many years.

In accordance with the CRL, this Section identified both a physical condition and an economic condition of blight with regards to the Hill Town site. Hill Town meets the physical blight definition pursuant to the CRL for its conditions that hinder the viable use of buildings or lots; chiefly, the incompatibility of the remaining facilities and infrastructure of the former Hercules Pumping Station and future planned land uses, as well as, significant utility easements that traverse the property. Without decommissioning the former Hercules Pumping Station facilities and infrastructure, new development will not be possible.

Additionally, multiple environmental assessments have been conducted at Hill Town and confirm the presence of hazardous material contamination in the soil and groundwater. Remediation of the petroleum contaminated soil and groundwater at Hill Town reduce the value of the property and increase predevelopment expenses. Estimates provided by Terrasearch on the cost of remediation, based on the best information known at the time and in 2004 dollars, are approximately \$670,000 to \$1,800,000.

The excessive costs associated with decommissioning the pump station facilities, transporting the structures and affected materials off-site for disposal and/or recycling, and remediating environmental contamination create challenges to redevelopment that cannot be reversed by private enterprise or the public sector acting alone without the assistance of redevelopment. The opportunity to utilize redevelopment funds to facilitate redevelopment of the Hill Town site is in the interest of the entire community. Current property disposition at Hill Town causes a lack of proper utilization of the area and this improper utilization is a serious burden on the community and particularly neighboring property owners whose property values may be negatively impacted by this eyesore.

The second site in the Added Area, Sycamore Crossing, also suffers from conditions that hinder the viable use of lots. Sycamore Crossing is currently vacant, and is likely to remain vacant and underutilized without assistance from the Agency. Portions of the site are covered with approximately twenty feet of fill material and concrete blocks which may have been foundation from former munitions bunkers. Conditions hindering the development of this site include the need to relocate underground and overhead utilities, remove a retail deed restriction, and install box culverts to negate environmental impacts of development on Refugio Creek of which portions bisect Sycamore Crossing.

Although the cost of installing or upgrading the box culverts and removing the retail deed restriction are unknown at this time, expenses associated with the relocation of certain utilities at Sycamore Crossing in order to accommodate development of planed land uses are estimated to be close to \$5 million. Such steep

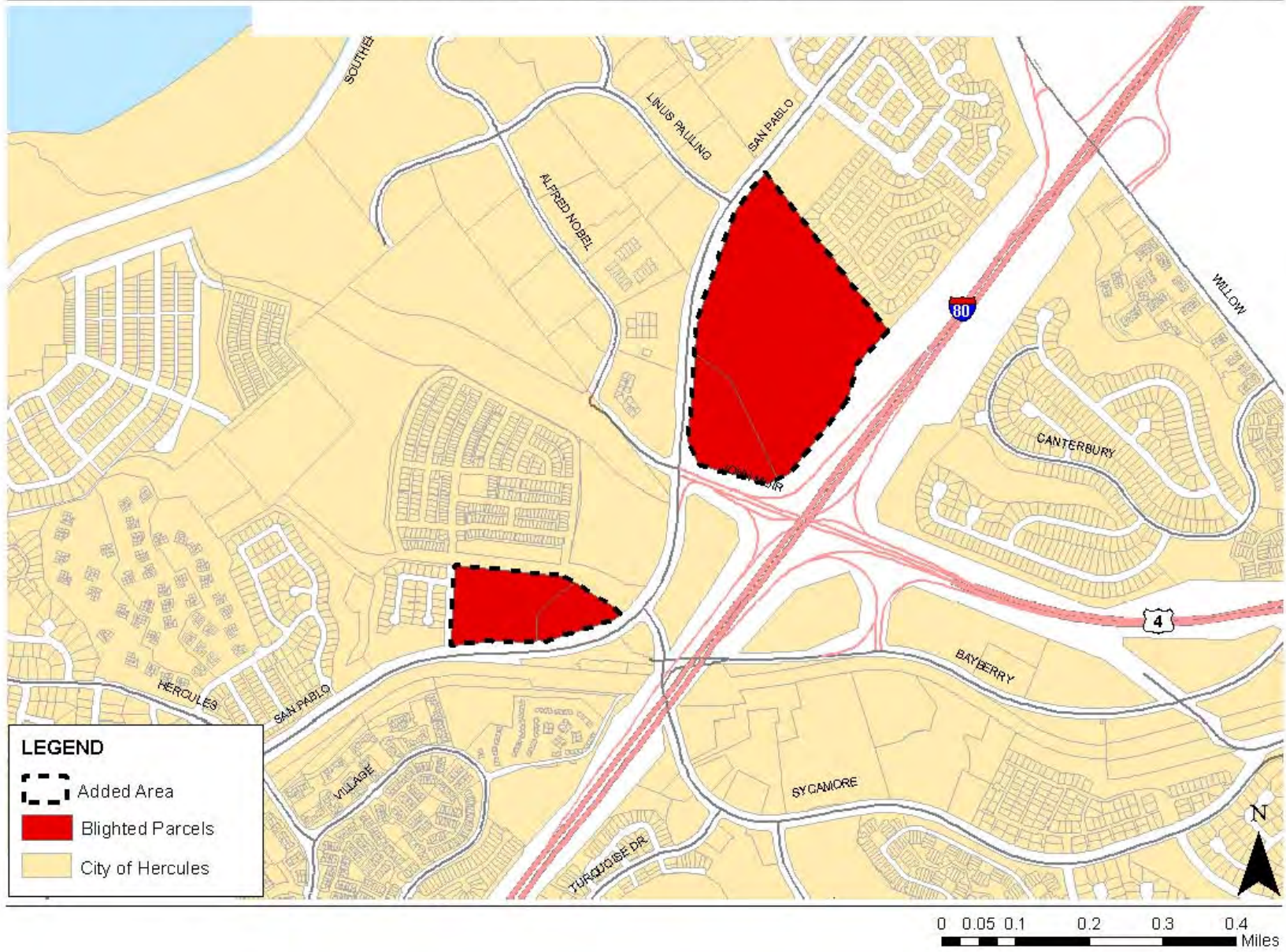
costs create challenges to development that may discourage redevelopment due to diminished returns on investment as a result of these predevelopment expenses. The fact that this site is located at the main intersection of the city upon entering/exiting the Interstate 80 and State Route 4 (thus a prime location for commercial development) and has yet to be redeveloped, demonstrates that the conditions present at this site are a discouragement to potential developers and cannot be reversed by private enterprise acting alone, by the public acting alone, or by both acting together without the assistance of redevelopment. Furthermore, large vacant and underutilized parcels, such as Sycamore Crossing, located in a City's central commercial area can be a significant burden on the community resulting from forgone sales tax and property tax revenues from viable businesses and building improvements.

In addition to these blighting conditions, the Sycamore Crossing site has been identified as an optimum location to construct new affordable housing. To that end, the Agency has used funds from its Low and Moderate Income Housing Fund to acquire the site and the project may warrant additional Agency assistance to alleviate the burden of the high costs associated with relocating utility easements. The site is to be the future location of new housing made affordable to persons of low and moderate income and will generate significant benefits to neighboring property owners and the community at large.

In accordance with CRL Sections 33352(b) and 33451.5(c)(1), Exhibit B-2 on the following page shows where blighting conditions exist in the Added Area.

ADDED AREA - BLIGHTED AND NECESSARY & ESSENTIAL PARCELS

EXHIBIT B-2



Summary of Blighting Conditions in the Dynamite Project Area

Significant physical and economic blighting conditions remain in the Dynamite Project Area, occupying approximately 18% of the total acreage in the Dynamite Project Area. An additional 9% of the land in the Dynamite Project Area is considered necessary and essential for the elimination of blight as that term is defined by CRL Section 33333.10(c)(3). The primary contention for blight in the Dynamite Project Area is associated with hazardous waste contamination located at key sites within the area.

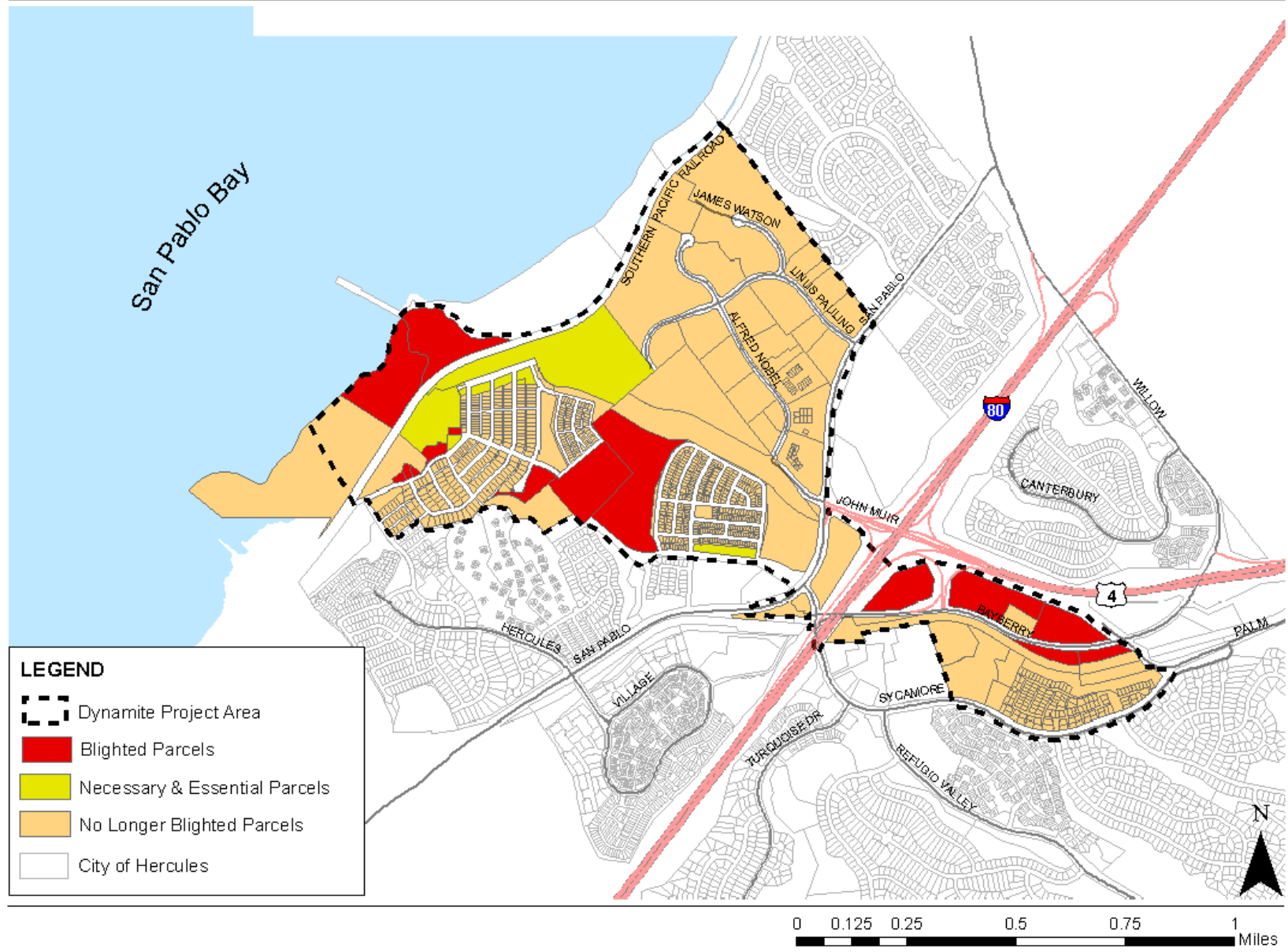
Hercules Point and surrounding sediments are contaminated with heavy metals, petroleum hydrocarbons, arsenic and lead. Other contaminated properties in the Dynamite Project Area, including the Pond 3 and Additional Potential Process Ponds, City of Hercules Corp Yard, the BART Replacement Parking Facility, California Red-Legged Frog Habitat Area, Carone Brothers Property, and the CA DOT site all contain known or suspected contaminants. These properties are all critical for the completion of redevelopment in the Dynamite Project Area, and with the exception of Pond 3 and Additional Potential Process Ponds, the Agency is contemplating integration of these sites into large-scale projects.

For these reasons and due to economic perils resulting from high foreclosure rates, it is essential that the Agency have all the powers available through redevelopment to facilitate the completion of the remaining projects required to eliminate blight in the Dynamite Project Area, including eminent domain authority and additional time on the effectiveness of the Plan and the time period for the collection of tax increment revenues. Having eminent domain authority will aid the Agency's lot assemblage, deed restriction, and easement activities and the additional ten years on the effectiveness of the Plan will allow the Agency to issue longer term bonds, effectively providing increased capital for its redevelopment and economic development projects and programs. Without these tools, the Agency's ability to eliminate blight may be constrained.

In accordance with CRL Sections 33352(b), 33451.5(C)(1), and 33333.11(h), the following map (Exhibit B-3) of the Dynamite Project Area identifies the portion of the project area that is no longer blighted, the portion of the project area that is blighted, and the portion of the project areas that contain necessary and essential parcels for the elimination of the remaining blight (definition of necessary and essential parcels is provided on page 22 of this Report).

DYNAMITE PROJECT AREA - BLIGHTED, NOT-BLIGHTED, AND NECESSARY & ESSENTIAL PARCELS

EXHIBIT B-3

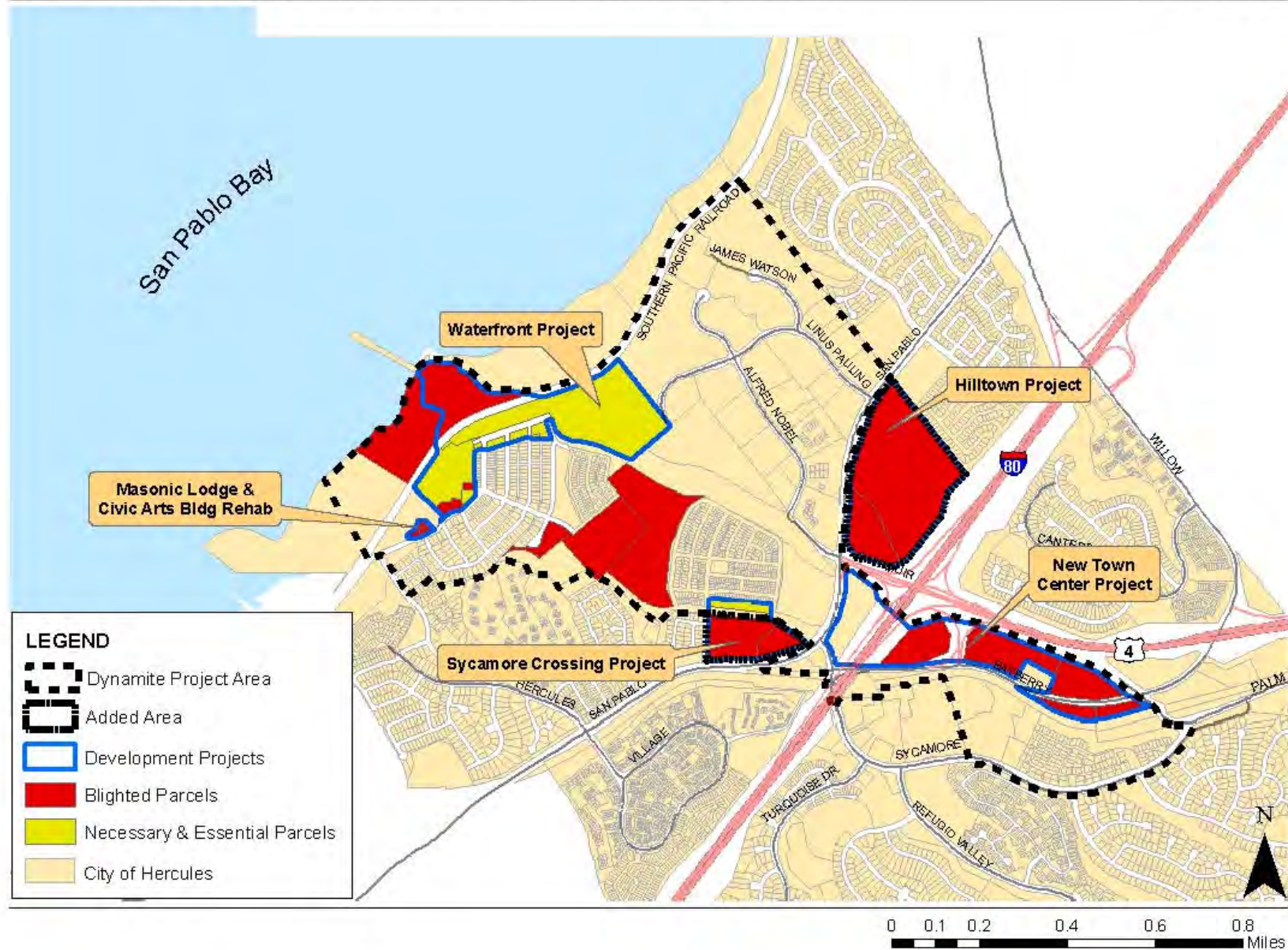


Relationship Between Blighted Parcels and Projects

Pursuant to CRL Section 33333.10(e), after the limit on the payment of indebtedness and receipt of property taxes that would have taken effect but for the 2009 Amendment (except for funds deposited into the Low and Moderate Income Housing Fund), the Agency shall spend tax increment funds only within the portions of the Dynamite Project Area that have been identified as containing blighted parcels and necessary and essential parcels. Exhibit B-4 illustrates the relationship between blighted parcels, necessary and essential parcels, and the projects being proposed by the Agency in the Dynamite Project Area. As evident in Exhibit B-4, the projects being proposed by the Agency fall within those portions of the Dynamite Project Area that remain blighted or are necessary and essential for the elimination of blight.

DYNAMITE PROJECT AREA & ADDED AREA - DEVELOPMENT PROJECTS

EXHIBIT B-4



**SECTION C:
IMPLEMENTATION PLAN**

CRL Sections 33333.11(h), 33352(c), and 33451.5(c)(7) require that this Report include an amendment to the Agency's Implementation Plan for the Merged Project Area ("Amended Implementation Plan"). A copy of the Amended Implementation Plan is provided as Appendix A.

**SECTION D:
THE PROPOSED METHOD OF FINANCING THE PROJECT AREA**

The 2009 Amendment does not propose any changes to the financing methods available to the Agency from those identified in the Existing Plan as adopted or subsequently amended. The Agency will seek to finance redevelopment activities with a combination of a variety of resources such as: financial assistance from the City, State of California, and/or Federal Government; Agency bonds or other obligations; proceeds from the lease or sale of Agency owned property; participation in development; loans from private financial institutions; and other available sources. However, the Agency will use property tax increment revenue, as provided for in Section 33670 of the CRL, as the primary financing mechanism to implement the Amendment.

The Amendment will not alter the provision of tax increment in the Merged Project Area; tax increment from the Dynamite Project Area and Project Area 2 will be based upon the same separate base year values. Tax increment from the Added Area will be based on the 2008-09 base year value provided by the County Auditor Controller for the Added Area.

GENERAL FINANCING METHODS AVAILABLE TO THE AGENCY

It is proposed that the redevelopment of the Project Area (including the Added Area) continue to be financed with a combination of a variety of resources including:

- Financial assistance from the City, State of California, and/or Federal Government;
- Agency bonds or other obligations;
- Proceeds from the lease or sale of Agency owned property;
- Participation in development;
- Loans from private financial institutions;
- Tax increment revenue; and
- Any other legally available source.

Financial Assistance from the City, County, State, and/or the Federal Government

These sources of funds include loans and advances for planning, construction and operating capital for implementation of the Updated 2009 Redevelopment Plan. As available, other funds, such as gas tax funds and Measure C funds may also be used to pay the costs of project implementation. The Agency and the City will work together to pursue available grants and loans to assist with project implementation. The City or other public agency may also issue bonds on behalf of the Agency and provide in-kind assistance.

Lease or Sale of Agency-Owned Property

If the Agency acquires property within or outside of the Project Area, the revenue generated by selling or leasing such properties may be used to pay the costs of Plan implementation.

Participation in Development

The Updated 2009 Redevelopment Plan authorizes the Agency to enter into agreements with property owners, tenants, and/or developers. Such participation will typically involve negotiation of an Owner Participation Agreement between the Agency and owner/business. Under such agreements, the Agency may use project-generated revenues to fund redevelopment costs.

Other Available Sources

Any other loans, grants, or financial assistance from the Federal government, or any other public or private source will be utilized, as available and appropriate. The Agency will also consider use of the powers provided by Chapter 8 (Redevelopment Construction Loans) of the CRL to provide construction funds for

appropriate projects. Where feasible and appropriate, the Agency may use assessment district and/or Mello-Roos bond financing to pay for the costs of public infrastructure, facilities, and operations. These sources are not expected to be sufficient to fund the programs and projects anticipated to revitalize and redevelop the Project Area.

Projected Tax Increment Revenues

The Agency will use property tax increment revenue as provided for in Section 33670 of the CRL as the primary financing mechanism to implement the Updated 2009 Redevelopment Plan for the Project Area. Tax increment revenue may only be used to pay indebtedness incurred by the Agency. Generally, indebtedness includes principal of and interest on loans, moneys advanced, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the Agency to finance or refinance, in whole or in part, redevelopment activities.

Tax increment revenue from the Merged Project Area is currently distributed three ways: 1) to the housing fund; 2) to affected taxing entities; and 3) to the redevelopment fund. In the Dynamite Project Area the Agency makes pass through payments to some taxing entities under the terms of negotiated agreements, and makes statutory pass through payments (pursuant to CRL Section 33607.7) to the remaining taxing entities. In Project Area 2 the Agency also makes statutory pass-through payments to affected taxing entities. Once tax increment commences in the Added Area, statutory pass through payments to all affected taxing entities will also be made.

RSG prepared preliminary forecasts of tax increment revenues for the Project Area based on the assumptions noted below.

New Development: For the new development outlined in Section A of this report, including the New Town Center, Waterfront, Hill Town and Sycamore Crossing projects, new assessed values were added based on the following:

New Residential development values of \$400,000 to \$500,000 per unit

New Commercial value of \$300 to \$337 per square foot

New Retail value of \$275 per square foot

An annual 2% inflation rate for new construction values

Each project is phased in over three to seven years.

Growth Rate: Assessed values increase each year based upon the maximum inflationary rate of 2%, plus value generated by sales of properties and new construction. A combined annual rate of 3% was assumed for each sub-area.

Effective Tax Rate: To convert annual net incremental valuation into estimated gross tax increment, a 1% percent factor was applied.

Housing Set-Aside Revenues: As required by Section 33334.2 of the CRL, unless certain findings are made, the Agency will continue to deposit 20 percent of the gross tax increment revenues generated by Project Area 2 and the new Added Area into the Agency's Housing Fund for the purposes of increasing, improving, and preserving the community's supply of affordable housing. Pursuant to the requirements of Section 33333.10(g) of the CRL, the amount deposited from the Dynamite Project Area will increase to 30 percent starting in FY 2009-10.

Payments to Affected Taxing Agencies: Prior to 1994, the Agency entered into a negotiated pass through agreement with the County for the Dynamite Project Area. In other instances, the Agency is required to make annual payments to affected taxing agencies pursuant to CRL Sections 33607.7 and 33607.5. The statutes require payments based upon a tiered system which is reflected in the tax increment projections.

Table D-1 provides tax increment projections for the Merged Project Area with the current time limits for the collection of tax increment in Dynamite Project Area. Table D-2 provides tax increment projections assuming the time extension of the Dynamite Project Area, but no tax increment from the Added Area. Table D-3 provides tax increment projections under the terms of the proposed Amendment by including both the Added Area tax increment and the time extension of the Dynamite Project Area.

REDEVELOPMENT AGENCY OF THE CITY OF HERCULES

TAX INCREMENT PROJECTIONS
MERGED PROJECT AREA WITHOUT AMENDMENT (EXISTING CONDITION)

TABLE D-1

Fiscal Years	Secured Value	New Construction Value	Unsecured Value	Total Value	Tax Increment	Unitary Utility Revenue	Gross Tax Increment	Housing Set Aside	PASS THROUGH PAYMENTS			NET NON HOUSING: BEFORE DEBT SVC
									Taxing Entity Payments	Dynamite County Payment	Nonhousing Developer Payments	
2008 - 2009	1,264,061,003	-	41,463,591	1,305,524,594	12,593,721	34,356	12,628,077	(2,525,001)	(1,824,645)	-	(2,386,039)	5,892,395
2009 - 2010	1,294,891,884	8,195,453	41,463,591	1,344,550,928	12,983,985	34,356	13,018,340	(3,364,694)	(1,738,505)	-	(2,479,095)	5,436,046
2010 - 2011	1,342,179,957	142,347,896	41,463,591	1,525,991,444	14,798,390	34,356	14,832,746	(3,891,867)	(2,037,371)	-	(2,662,380)	6,241,127
2011 - 2012	1,529,063,689	244,416,617	41,463,591	1,814,943,896	17,687,914	34,356	17,722,270	(4,741,062)	(2,491,671)	-	(2,862,825)	7,626,713
2012 - 2013	1,826,684,714	500,126,737	41,463,591	2,368,275,042	23,221,226	34,356	23,255,582	(6,382,863)	(3,326,544)	(310,504)	(2,957,549)	10,278,122
2013 - 2014	2,396,615,795	446,423,146	41,463,591	2,884,502,532	28,383,501	34,356	28,417,856	(7,912,806)	(4,109,398)	(4,013,730)	(3,065,317)	9,316,606
2014 - 2015	2,928,330,110	168,128,384	41,463,591	3,137,922,084	30,917,696	34,356	30,952,052	(8,653,764)	(4,798,592)	(4,435,144)	(3,187,531)	9,877,021
2015 - 2016	3,189,352,248	122,158,506	41,463,591	3,352,974,345	33,068,219	34,356	33,102,575	(9,279,041)	(5,387,083)	(4,786,454)	(3,218,532)	10,431,464
2016 - 2017	3,410,856,076	125,823,261	41,463,591	3,578,142,928	35,319,905	34,356	35,354,260	(9,934,071)	(6,002,905)	(5,154,900)	(3,208,128)	11,054,256
2017 - 2018	3,642,779,717	-	41,463,591	3,684,243,308	36,380,909	34,356	36,415,264	(10,231,282)	(6,304,978)	(5,307,918)	(3,286,094)	11,284,992
2018 - 2019	3,752,063,109	-	41,463,591	3,793,526,700	37,473,743	34,356	37,508,098	(10,537,409)	(6,616,114)	(5,465,527)	(3,366,399)	11,522,650
2019 - 2020	3,864,625,002	-	41,463,591	3,906,088,593	38,599,361	34,356	38,633,717	(10,852,720)	(6,936,583)	(5,627,864)	(3,449,113)	11,767,436
2020 - 2021	3,980,563,752	-	41,463,591	4,022,027,343	39,758,749	34,356	39,793,105	(11,177,490)	(7,266,666)	(5,795,070)	(3,534,309)	12,019,565
2021 - 2022	4,099,980,665	-	41,463,591	4,141,444,256	40,952,918	34,356	40,987,274	(11,512,003)	(7,606,652)	(5,967,293)	(3,622,061)	12,279,266
2022 - 2023	4,222,980,084	-	41,463,591	4,264,443,675	42,182,912	34,356	42,217,268	(11,856,552)	(7,956,838)	(6,144,683)	(3,712,445)	12,546,751
2023 - 2024	4,349,669,487	-	41,463,591	4,391,133,078	43,449,806	34,356	43,484,162	(12,211,437)	(8,317,529)	(6,327,394)	(3,805,540)	12,822,262
2024 - 2025	4,480,159,572	-	41,463,591	4,521,623,163	44,754,707	34,356	44,789,063	(12,576,968)	(8,689,041)	(6,515,587)	(3,901,429)	13,106,036
2025 - 2026	4,614,564,359	-	41,463,591	4,656,027,950	46,098,755	34,356	46,133,111	(12,953,466)	(9,071,698)	(6,709,426)	(4,000,194)	13,398,327
2026 - 2027	4,753,001,289	-	41,463,591	4,794,464,880	47,483,124	34,356	47,517,480	(13,341,259)	(9,465,834)	(6,909,079)	(4,101,922)	13,699,386
2027 - 2028	4,895,591,328	-	41,463,591	4,937,054,919	48,909,025	34,356	48,943,380	(13,740,685)	(9,871,795)	(7,114,723)	(4,206,702)	14,009,475
2028 - 2029	5,042,459,068	-	41,463,591	5,083,922,659	50,377,702	34,356	50,412,058	(14,152,094)	(10,289,935)	(7,326,535)	(4,314,626)	14,328,867
2029 - 2030	5,193,732,840	-	41,463,591	5,235,196,431	51,890,440	34,356	51,924,795	(14,575,845)	(10,720,619)	(7,544,702)	(4,425,787)	14,657,842
2030 - 2031	5,349,544,825	-	41,463,591	5,391,008,416	53,448,560	34,356	53,482,915	(15,012,309)	(11,198,912)	(7,769,414)	(4,517,366)	14,984,913
2031 - 2032	5,510,031,170	-	41,463,591	5,551,494,761	55,053,423	34,356	55,087,779	(15,461,867)	(11,691,554)	(8,000,867)	(4,611,693)	15,321,797
2032 - 2033	5,675,332,105	-	41,463,591	5,716,795,696	56,706,432	34,356	56,740,788	(15,924,912)	(12,198,975)	(8,239,264)	(4,708,849)	15,668,787
2033 - 2034	5,845,592,068	-	41,463,591	5,887,055,659	58,409,032	34,356	58,443,388	(16,401,848)	(12,721,619)	(8,484,813)	(4,808,920)	16,026,187
2034 - 2035	6,020,959,830	-	41,463,591	6,062,423,421	60,162,710	34,356	60,197,065	(16,893,092)	(13,372,855)	(8,737,728)	(3,893,999)	17,299,391
2035 - 2036	6,201,588,625	-	41,463,591	6,243,052,216	61,968,998	34,356	62,003,353	(17,399,073)	(14,043,628)	(8,998,231)	(3,969,904)	17,592,517
2036 - 2037	6,387,636,284	-	41,463,591	6,429,099,875	63,829,474	34,356	63,863,830	(17,920,234)	(14,734,524)	(9,266,549)	(4,048,087)	17,894,437
2037 - 2038	1,307,813,954	-	3,810,141	1,311,624,095	12,760,846	3,074	12,763,919	(2,552,169)	(4,097,446)	-	(4,128,614)	1,985,685
2038 - 2039	1,347,048,373	-	3,810,141	1,350,858,514	13,153,190	3,074	13,156,264	(2,630,638)	(4,285,772)	-	(4,211,558)	2,028,296
2039 - 2040	1,387,459,824	-	3,810,141	1,391,269,965	13,557,304	3,074	13,560,378	(2,711,461)	(4,479,747)	-	(4,296,990)	2,072,181
2040 - 2041	1,429,083,619	-	3,810,141	1,432,893,760	13,973,542	3,074	13,976,616	(2,794,708)	(4,679,541)	-	(4,384,985)	2,117,382
2041 - 2042	1,471,956,127	-	3,810,141	1,475,766,268	14,402,267	3,074	14,405,341	(2,880,453)	(4,885,329)	-	(4,475,619)	2,163,940
2042 - 2043	1,516,114,811	-	3,810,141	1,519,924,952	14,843,854	3,074	14,846,928	(2,968,771)	(5,097,291)	-	(4,568,973)	2,211,894
2043 - 2044	1,561,598,255	-	3,810,141	1,565,408,396	15,298,689	3,074	15,301,762	(3,059,738)	(5,315,611)	-	(4,665,127)	2,261,286
2044 - 2045	1,608,446,203	-	3,810,141	1,612,256,344	15,767,168	3,075	15,770,243	(3,153,434)	(5,540,481)	-	(4,764,166)	2,312,162
2045 - 2046	-	-	-	-	-	-	-	-	-	-	-	-
2046 - 2047	-	-	-	-	-	-	-	-	-	-	-	-
2047 - 2048	-	-	-	-	-	-	-	-	-	-	-	-
2048 - 2049	-	-	-	-	-	-	-	-	-	-	-	-
2049 - 2050	-	-	-	-	-	-	-	-	-	-	-	-
2050 - 2051	-	-	-	-	-	-	-	-	-	-	-	-
2051 - 2052	-	-	-	-	-	-	-	-	-	-	-	-
2052 - 2053	-	-	-	-	-	-	-	-	-	-	-	-
2053 - 2054	-	-	-	-	-	-	-	-	-	-	-	-
Totals		1,757,619,999			1,300,622,199	1,020,903	1,301,643,102	(354,169,086)	(269,174,281)	(160,953,401)	(141,808,868)	375,537,467

NPV@6%

\$479,717,056 (\$131,567,312) (\$90,016,803) (\$57,714,735) (\$50,873,599) \$149,544,606



REDEVELOPMENT AGENCY OF THE CITY OF HERCULES

TAX INCREMENT PROJECTIONS
MERGED PROJECT AREA WITH DYNAMITE EXTENSION AMENDMENT ONLY

TABLE D-2

Fiscal Years	Secured Value	New Construction Value	Unsecured Value	Total Value	Tax Increment	Unitary Utility Revenue	Gross Tax Increment	Housing Set Aside	PASS THROUGH PAYMENTS			NET NON HOUSING DEBT SVC BEFORE
									Taxing Entity Payments	Dynamite County Payment	Nonhousing Developer Payments	
2008 - 2009	1,264,061,003	-	41,463,591	1,305,524,594	12,593,721	34,356	12,628,077	(2,525,001)	(1,824,645)	-	(2,386,039)	5,892,393
2009 - 2010	1,294,891,884	8,195,453	41,463,591	1,344,550,928	12,983,985	34,356	13,018,340	(3,364,694)	(1,738,505)	-	(2,479,095)	5,436,046
2010 - 2011	1,342,179,957	142,347,896	41,463,591	1,525,991,444	14,798,390	34,356	14,832,746	(3,891,867)	(2,037,371)	-	(2,662,380)	6,241,127
2011 - 2012	1,529,063,689	244,416,617	41,463,591	1,814,943,896	17,687,914	34,356	17,722,270	(4,741,062)	(2,491,671)	-	(2,862,825)	7,626,713
2012 - 2013	1,826,684,714	500,126,737	41,463,591	2,368,275,042	23,221,226	34,356	23,255,582	(6,382,863)	(3,326,544)	(310,504)	(2,957,549)	10,278,122
2013 - 2014	2,396,615,795	446,423,146	41,463,591	2,884,502,532	28,383,501	34,356	28,417,856	(7,912,806)	(4,109,398)	(4,013,730)	(3,065,317)	9,316,606
2014 - 2015	2,928,330,110	168,128,384	41,463,591	3,137,922,084	30,917,696	34,356	30,952,052	(8,653,764)	(4,798,592)	(4,435,144)	(3,187,531)	9,877,021
2015 - 2016	3,189,352,248	122,158,506	41,463,591	3,352,974,345	33,068,219	34,356	33,102,575	(9,279,041)	(5,387,083)	(4,786,454)	(3,218,532)	10,431,464
2016 - 2017	3,410,856,076	125,823,261	41,463,591	3,578,142,928	35,319,905	34,356	35,354,260	(9,934,071)	(6,002,905)	(5,154,900)	(3,208,128)	11,054,256
2017 - 2018	3,642,779,717	-	41,463,591	3,684,243,308	36,380,909	34,356	36,415,264	(10,231,282)	(6,304,978)	(5,307,918)	(3,286,094)	11,284,992
2018 - 2019	3,752,063,109	-	41,463,591	3,793,526,700	37,473,743	34,356	37,508,098	(10,537,409)	(6,616,114)	(5,465,527)	(3,366,399)	11,522,650
2019 - 2020	3,864,625,002	-	41,463,591	3,906,088,593	38,599,361	34,356	38,633,717	(10,852,720)	(6,936,583)	(5,627,864)	(3,449,113)	11,767,438
2020 - 2021	3,980,563,752	-	41,463,591	4,022,027,343	39,758,749	34,356	39,793,105	(11,177,490)	(7,266,666)	(5,795,070)	(3,534,309)	12,019,569
2021 - 2022	4,099,980,665	-	41,463,591	4,141,444,256	40,952,918	34,356	40,987,274	(11,512,003)	(7,606,652)	(5,967,293)	(3,622,061)	12,279,265
2022 - 2023	4,222,980,084	-	41,463,591	4,264,443,675	42,182,912	34,356	42,217,268	(11,856,552)	(7,956,838)	(6,144,683)	(3,712,445)	12,546,751
2023 - 2024	4,349,669,487	-	41,463,591	4,391,133,078	43,449,806	34,356	43,484,162	(12,211,437)	(8,317,529)	(6,327,394)	(3,805,540)	12,822,262
2024 - 2025	4,480,159,572	-	41,463,591	4,521,623,163	44,754,707	34,356	44,789,063	(12,576,968)	(8,689,041)	(6,515,587)	(3,901,429)	13,106,038
2025 - 2026	4,614,564,359	-	41,463,591	4,656,027,950	46,098,755	34,356	46,133,111	(12,953,466)	(9,071,698)	(6,709,426)	(4,000,194)	13,398,327
2026 - 2027	4,753,001,289	-	41,463,591	4,794,464,880	47,483,124	34,356	47,517,480	(13,341,259)	(9,465,834)	(6,909,079)	(4,101,922)	13,699,385
2027 - 2028	4,895,591,328	-	41,463,591	4,937,054,919	48,909,025	34,356	48,943,380	(13,740,685)	(9,871,795)	(7,114,723)	(4,206,702)	14,009,475
2028 - 2029	5,042,459,068	-	41,463,591	5,083,922,659	50,377,702	34,356	50,412,058	(14,152,094)	(10,289,935)	(7,326,535)	(4,314,626)	14,328,867
2029 - 2030	5,193,732,840	-	41,463,591	5,235,196,431	51,890,440	34,356	51,924,795	(14,575,845)	(10,720,619)	(7,544,702)	(4,425,787)	14,657,842
2030 - 2031	5,349,544,825	-	41,463,591	5,391,008,416	53,448,560	34,356	53,482,915	(15,012,309)	(11,198,912)	(7,769,414)	(4,517,366)	14,984,913
2031 - 2032	5,510,031,170	-	41,463,591	5,551,494,761	55,053,423	34,356	55,087,779	(15,461,867)	(11,691,554)	(8,000,867)	(4,611,693)	15,321,797
2032 - 2033	5,675,332,105	-	41,463,591	5,716,795,696	56,706,432	34,356	56,740,788	(15,924,912)	(12,198,975)	(8,239,264)	(4,708,849)	15,668,787
2033 - 2034	5,845,592,068	-	41,463,591	5,887,055,659	58,409,032	34,356	58,443,388	(16,401,848)	(12,721,619)	(8,484,813)	(4,808,920)	16,026,187
2034 - 2035	6,020,959,830	-	41,463,591	6,062,423,421	60,162,710	34,356	60,197,065	(16,893,092)	(13,372,855)	(8,737,728)	(3,893,999)	17,299,391
2035 - 2036	6,201,588,625	-	41,463,591	6,243,052,216	61,968,998	34,356	62,003,353	(17,399,073)	(14,043,628)	(8,998,231)	(3,969,904)	17,592,517
2036 - 2037	6,387,636,284	-	41,463,591	6,429,099,875	63,829,474	34,356	63,863,830	(17,920,234)	(14,734,524)	(9,266,549)	(4,048,087)	17,894,437
2037 - 2038	6,579,265,373	-	41,463,591	6,620,728,964	65,745,765	34,356	65,780,121	(18,457,030)	(15,446,147)	(9,542,916)	(4,128,614)	18,205,414
2038 - 2039	6,776,643,334	-	41,463,591	6,818,106,925	67,719,545	34,356	67,753,900	(19,009,929)	(16,179,118)	(9,827,575)	(4,211,558)	18,525,721
2039 - 2040	6,979,942,634	-	41,463,591	7,021,406,225	69,752,538	34,356	69,786,893	(19,579,415)	(16,934,079)	(10,120,773)	(4,296,990)	18,855,637
2040 - 2041	7,189,340,913	-	41,463,591	7,230,804,504	71,846,521	34,356	71,880,876	(20,165,986)	(17,711,688)	(10,422,767)	(4,384,985)	19,195,450
2041 - 2042	7,405,021,140	-	41,463,591	7,446,484,731	74,003,323	34,356	74,037,678	(20,770,155)	(18,512,626)	(10,733,821)	(4,475,619)	19,545,458
2042 - 2043	7,627,171,774	-	41,463,591	7,668,635,365	76,224,829	34,356	76,259,185	(21,392,448)	(19,337,592)	(11,054,206)	(4,568,973)	19,905,966
2043 - 2044	7,855,986,928	-	41,463,591	7,897,450,519	78,512,981	34,356	78,547,336	(22,033,410)	(20,187,307)	(11,384,203)	(4,665,127)	20,277,289
2044 - 2045	8,091,666,535	-	41,463,591	8,133,130,126	80,869,777	34,357	80,904,133	(22,693,601)	(21,062,514)	(11,724,100)	(4,764,166)	20,659,753
2045 - 2046	8,338,716,942	-	37,653,450	8,376,370,392	83,203,227	31,282	83,234,509	(23,427,651)	(22,023,657)	(12,074,194)	-	18,689,127
2046 - 2047	8,587,048,451	-	37,653,450	8,624,701,901	85,556,776	31,282	85,588,058	(24,270,702)	(23,024,651)	(12,434,791)	-	19,040,909
2047 - 2048	-	-	-	-	-	-	-	-	-	-	-	-
2048 - 2049	-	-	-	-	-	-	-	-	-	-	-	-
2049 - 2050	-	-	-	-	-	-	-	-	-	-	-	-
2050 - 2051	-	-	-	-	-	-	-	-	-	-	-	-
2051 - 2052	-	-	-	-	-	-	-	-	-	-	-	-
2052 - 2053	-	-	-	-	-	-	-	-	-	-	-	-
2053 - 2054	-	-	-	-	-	-	-	-	-	-	-	-
Totals		1,757,619,999			1,907,639,080	1,333,722	1,908,972,802	(536,367,996)	(409,237,834)	(270,272,747)	(141,808,868)	551,285,358
NPV@6%							\$561,058,989	(\$155,969,892)	(\$108,644,632)	(\$72,356,283)	(\$50,873,599)	\$173,214,581

REDEVELOPMENT AGENCY OF THE CITY OF HERCULES

TAX INCREMENT PROJECTIONS
MERGED PROJECT AREA WITH AMENDMENT

TABLE D-3

Fiscal Years	Secured Value	New Construction Value	Unsecured Value	Total Value	Tax Increment	Unitary Utility Revenue	Gross Tax Increment	Housing Set Aside	PASS THROUGH PAYMENTS			NET NON HOUSING BEFORE DEBT SVC
									Taxing Entity Payments	Dynamite County Payment	Nonhousing Developer Payments	
2008 - 2009	1,264,061,003	-	41,463,591	1,305,524,594	12,593,721	34,356	12,628,077	(2,525,001)	(1,824,645)	-	(2,386,039)	5,892,393
2009 - 2010	1,294,891,884	8,195,453	41,463,591	1,344,550,928	12,983,985	34,356	13,018,340	(3,364,694)	(1,738,505)	-	(2,479,095)	5,436,046
2010 - 2011	1,342,179,957	142,347,896	41,463,591	1,525,991,444	14,798,390	34,356	14,832,746	(3,891,867)	(2,037,371)	-	(2,662,380)	6,241,127
2011 - 2012	1,529,063,689	445,484,117	41,463,591	2,016,011,396	19,698,589	34,356	19,732,945	(5,143,197)	(2,893,806)	-	(2,862,825)	8,833,118
2012 - 2013	2,031,773,564	617,926,027	41,463,591	2,691,163,182	26,450,107	34,356	26,484,463	(7,028,639)	(3,972,320)	(310,504)	(2,957,549)	12,215,451
2013 - 2014	2,725,961,698	601,411,093	41,463,591	3,368,836,382	33,226,839	34,356	33,261,195	(8,881,474)	(5,078,066)	(4,013,730)	(3,065,317)	12,222,609
2014 - 2015	3,422,350,636	254,722,956	41,463,591	3,718,537,184	36,723,847	34,356	36,758,203	(9,814,995)	(5,959,822)	(4,435,144)	(3,187,531)	13,360,711
2015 - 2016	3,787,385,801	122,158,506	41,463,591	3,951,007,897	39,048,554	34,356	39,082,910	(10,475,108)	(6,583,150)	(4,786,454)	(3,218,532)	14,019,665
2016 - 2017	4,026,830,635	125,823,261	41,463,591	4,194,117,487	41,479,650	34,356	41,514,006	(11,166,020)	(7,234,854)	(5,154,900)	(3,208,128)	14,750,103
2017 - 2018	4,277,233,513	-	41,463,591	4,318,697,104	42,725,447	34,356	42,759,802	(11,500,189)	(7,573,886)	(5,307,918)	(3,286,094)	15,091,715
2018 - 2019	4,405,550,518	-	41,463,591	4,447,014,109	44,008,617	34,356	44,042,972	(11,844,384)	(7,923,088)	(5,465,527)	(3,366,399)	15,443,574
2019 - 2020	4,537,717,034	-	41,463,591	4,579,180,625	45,330,282	34,356	45,364,637	(12,198,904)	(8,315,703)	(5,627,864)	(3,449,113)	15,773,054
2020 - 2021	4,673,848,545	-	41,463,591	4,715,312,136	46,691,597	34,356	46,725,952	(12,564,059)	(8,726,579)	(5,795,070)	(3,534,309)	16,112,418
2021 - 2022	4,814,064,001	-	41,463,591	4,855,527,592	48,093,751	34,356	48,128,107	(12,940,170)	(9,136,620)	(5,967,293)	(3,622,061)	16,461,963
2022 - 2023	4,958,485,921	-	41,463,591	4,999,949,512	49,537,971	34,356	49,572,326	(13,327,563)	(9,565,640)	(6,144,683)	(3,712,445)	16,821,995
2023 - 2024	5,107,240,499	-	41,463,591	5,148,704,090	51,025,516	34,356	51,059,872	(13,726,579)	(10,007,531)	(6,327,394)	(3,805,540)	17,192,827
2024 - 2025	5,260,457,714	-	41,463,591	5,301,921,305	52,557,689	34,356	52,592,044	(14,137,565)	(10,462,679)	(6,515,587)	(3,901,429)	17,574,784
2025 - 2026	5,418,271,445	-	41,463,591	5,459,735,036	54,135,826	34,356	54,170,181	(14,560,880)	(10,931,481)	(6,709,426)	(4,000,194)	17,968,201
2026 - 2027	5,580,819,589	-	41,463,591	5,622,283,180	55,761,307	34,356	55,795,663	(14,996,895)	(11,414,347)	(6,909,079)	(4,101,922)	18,373,419
2027 - 2028	5,748,244,176	-	41,463,591	5,789,707,767	57,435,553	34,356	57,469,909	(15,445,991)	(11,911,699)	(7,114,723)	(4,206,702)	18,790,794
2028 - 2029	5,920,691,502	-	41,463,591	5,962,155,093	59,160,026	34,356	59,194,382	(15,908,559)	(12,423,972)	(7,326,535)	(4,314,626)	19,220,690
2029 - 2030	6,098,312,247	-	41,463,591	6,139,775,838	60,936,234	34,356	60,970,589	(16,385,004)	(12,951,612)	(7,544,702)	(4,425,787)	19,663,484
2030 - 2031	6,281,261,614	-	41,463,591	6,322,725,205	62,765,728	34,356	62,800,083	(16,875,743)	(13,529,771)	(7,769,414)	(4,517,366)	20,107,789
2031 - 2032	6,469,699,463	-	41,463,591	6,511,163,054	64,650,106	34,356	64,684,462	(17,381,204)	(14,125,275)	(8,000,867)	(4,611,693)	20,565,423
2032 - 2033	6,663,790,447	-	41,463,591	6,705,254,038	66,591,016	34,356	66,625,371	(17,901,829)	(14,738,643)	(8,239,264)	(4,708,849)	21,036,786
2033 - 2034	6,863,704,160	-	41,463,591	6,905,167,751	68,590,153	34,356	68,624,509	(18,438,072)	(15,370,413)	(8,484,813)	(4,808,920)	21,522,290
2034 - 2035	7,069,615,285	-	41,463,591	7,111,078,876	70,649,264	34,356	70,683,620	(18,990,403)	(16,134,048)	(8,737,728)	(3,893,999)	22,927,441
2035 - 2036	7,281,703,743	-	41,463,591	7,323,167,334	72,770,149	34,356	72,804,504	(19,559,303)	(16,920,592)	(8,998,231)	(3,969,904)	23,356,473
2036 - 2037	7,500,154,856	-	41,463,591	7,541,618,447	74,954,660	34,356	74,989,016	(20,145,271)	(17,730,733)	(9,266,549)	(4,048,087)	23,798,376
2037 - 2038	7,725,159,501	-	41,463,591	7,766,623,092	77,204,706	34,356	77,239,062	(20,748,818)	(18,565,178)	(9,542,916)	(4,128,614)	24,253,535
2038 - 2039	7,956,914,286	-	41,463,591	7,998,377,877	79,522,254	34,356	79,556,610	(21,370,471)	(19,424,656)	(9,827,575)	(4,211,558)	24,722,350
2039 - 2040	8,195,621,715	-	41,463,591	8,237,085,306	81,909,329	34,356	81,943,684	(22,010,774)	(20,349,576)	(10,120,773)	(4,296,990)	25,165,572
2040 - 2041	8,441,490,366	-	41,463,591	8,482,953,957	84,368,015	34,356	84,402,371	(22,670,285)	(21,302,243)	(10,422,767)	(4,384,985)	25,622,090
2041 - 2042	8,694,735,077	-	41,463,591	8,736,198,668	86,900,462	34,356	86,934,818	(23,349,583)	(22,283,491)	(10,733,821)	(4,475,619)	26,092,305
2042 - 2043	8,955,577,130	-	41,463,591	8,997,040,721	89,508,883	34,356	89,543,238	(24,049,259)	(23,294,176)	(11,054,206)	(4,568,973)	26,576,625
2043 - 2044	9,224,244,443	-	41,463,591	9,265,708,034	92,195,556	34,356	92,229,911	(24,769,925)	(24,335,181)	(11,384,203)	(4,665,127)	27,075,475
2044 - 2045	9,500,971,777	-	41,463,591	9,542,435,368	94,962,829	34,357	94,997,186	(25,512,211)	(25,407,416)	(11,724,100)	(4,764,166)	27,589,292
2045 - 2046	8,129,301,341	-	37,653,450	8,166,954,791	81,563,419	31,282	81,594,701	(23,026,826)	(20,739,721)	(12,074,194)	-	25,753,959
2046 - 2047	8,373,180,381	-	37,653,450	8,410,833,831	84,002,209	31,282	84,033,491	(23,714,915)	(21,638,691)	(12,434,791)	-	26,245,093
2047 - 2048	1,539,985,889	-	-	1,539,985,889	15,399,859	-	15,399,859	(3,079,972)	(4,972,170)	-	-	7,347,717
2048 - 2049	1,586,185,465	-	-	1,586,185,465	15,861,855	-	15,861,855	(3,172,371)	(5,193,928)	-	-	7,495,556
2049 - 2050	1,633,771,029	-	-	1,633,771,029	16,337,710	-	16,337,710	(3,267,542)	(5,422,339)	-	-	7,647,830
2050 - 2051	1,682,784,160	-	-	1,682,784,160	16,827,842	-	16,827,842	(3,365,568)	(5,657,602)	-	-	7,804,672
2051 - 2052	1,733,267,685	-	-	1,733,267,685	17,332,677	-	17,332,677	(3,466,535)	(5,899,923)	-	-	7,966,219
2052 - 2053	1,785,265,715	-	-	1,785,265,715	17,852,657	-	17,852,657	(3,570,531)	(6,149,513)	-	-	8,132,613
2053 - 2054	1,838,823,687	-	-	1,838,823,687	18,388,237	-	18,388,237	(3,677,647)	(6,406,591)	-	-	8,303,998
Totals		2,318,069,309			2,355,513,074	1,333,722	2,356,846,796	(625,942,795)	(534,252,765)	(270,272,747)	(141,808,868)	784,569,622
	NPV@6%						\$661,645,777	(\$176,087,250)	(\$133,463,752)	(\$72,356,283)	(\$50,873,599)	\$228,864,893



PROPOSED FINANCING METHOD AND ECONOMIC FEASIBILITY

The proposed method of financing redevelopment and the economic feasibility of the Project Area are presented in Table D-4. The table compares the future projected tax increment revenues of the Project Area, plus other resources, to the existing obligations and program expenditures on a future dollar basis. It should be noted that the analysis shown in Table D-4 is based on one set of assumptions for continued implementation of redevelopment. Actual implementation will be affected by such factors as market conditions, financing costs, and actual assessed valuation growth. The analysis indicates that the Project Area will have sufficient funding to meet all existing debt obligations, pay future pass through payments to other taxing entities, make deposits as required to the Affordable Housing Fund, and complete all of the programs outlined in the development program.

FINANCIAL FEASIBILITY ANALYSIS		Table D-4
HERCULES REDEVELOPMENT AGENCY - 2009 AMENDMENT		
<u>Sources of Funds</u>		
Beginning Balance - 7/1/08	\$	35,000,000
Total Tax Increment Revenue		2,357,000,000
Bond Proceeds		100,000,000
Other Revenue Sources		25,000,000
		<u>25,000,000</u>
TOTAL RESOURCES	\$	2,517,000,000
<u>Use of Funds</u>		
<u>Financing Costs</u>		
Debt Service (Non-Housing)	\$	350,000,000
Statutory Pass Thru Payments		534,000,000
Pass Thru to County		270,000,000
		<u>270,000,000</u>
		1,154,000,000
<u>Obligated Payments</u>		
Developer Reimbursements		142,000,000
<u>Capital Expenditure</u>		
Economic Development Program		65,000,000
Capital Planning Program		40,000,000
Capital Improvement Program		70,000,000
Public Facilities		150,000,000
		<u>150,000,000</u>
		325,000,000
<u>Affordable Housing</u>		
Bond Debt Service		217,000,000
Remaining Housing Set-aside		409,000,000
		<u>409,000,000</u>
		626,000,000
Operating and Administrative Expenses		<u>100,000,000</u>
Contingency		<u>170,000,000</u>
TOTAL USE OF FUNDS	\$	2,517,000,000

Source: RSG Tax Increment Model and Hercules City Staff

WHY CITY FUNDING SOURCES ARE INADEQUATE TO ADDRESS BLIGHT

When the Dynamite Project Area and Project Area 2 were adopted, the Reports to Council prepared in conjunction with the adoption process (“Original Reports”) established the need for tax increment revenue to address the blighting conditions present at that time. The Original Reports identified that other funding sources would be used as available to implement redevelopment, however, these funding sources alone were not adequate to implement needed redevelopment. The other funding sources cited included Federal Community Development Block Grant (“CDBG”) Funds; City capital improvement funds; Assessment Districts; Developer Participation; and other Private Sources. The Original Reports documented why these

funds alone were not sufficient to fund the needed redevelopment projects identified at that time. Although the Agency has used other funding sources when available, these other funding sources continue to be inadequate.

During fiscal year 2007, the City's expenditures on public safety, parks and recreation, public works, and community development activities outpaced City revenues by almost \$1.5 million dollars. The City used its fund balance reserves to offset the shortfall; however, it will be unable to do so into the future. Many factors have contributed to the shortfall including the City's historically low property tax rate, an anemic commercial base from which the City derives sales tax revenues, and the loss of developer fees which were robust in the early 2000's but have essentially evaporated. And similar to municipalities across the State, the cost of health insurance, retirement benefits and workers compensation insurance have all added to the cost of doing business, putting City finances in a tenuous situation.

Additionally, the City's list of long term major capital improvements, which is estimated to cost well over \$321 million, can in no way be supported by City funds alone. Traditionally, the City has relied on redevelopment tax increment to fund these types of projects within the Merged Project Area and will continue to do so for the foreseeable future, especially given the additional potential adverse impacts on City funding sources resulting from the State's perpetual financial crisis.

In summary, the City's revenue sources are not adequate, either historically, currently, or prospectively, to maintain a constant level of Citywide basic services much less fund an intensive capital investment program, economic development program, or affordable housing program in the Project Area.

WHY OTHER GOVERNMENTAL FUNDING SOURCES ARE INADEQUATE TO ELIMINATE BLIGHT

The City is not an entitlement community and therefore does not receive CDBG funds. The City does receive limited funds from the State of California; however, with the State's bleak financial situation, funding from the State is unlikely to improve in the foreseeable future. Additionally, to date, the State has taken \$350 million from redevelopment agencies statewide for 2008-09, and recent budget proposals envision increasing this amount and making it permanent every year.

In 2006 voters in California passed Propositions 1C, 1E and 84 to help fund capital infrastructure improvements throughout the State, but these funds are largely earmarked for certain State programs and are focused on disaster preparedness, stormwater, water and park improvements. State Housing and Community Development bond and grant programs are largely focused on affordable housing needs and communities throughout the State must compete for a limited pool of funds. In the past, the City has sought State funding for improvements, however, the City has had only limited success. The City and Agency will continue to seek and apply for any funding that becomes available; however, these sources cannot be relied upon to complete the projects needed to address blighting conditions in the Project Area.

As discussed in Section B, the Pinole-Hercules Water Pollution Control Plant is no longer adequate to serve its jurisdictional needs for wastewater treatment and unless this situation is addressed, it will affect future development in the area including the Project Area. Solutions to this problem are estimated to cost between \$115 million to \$150 million to implement and there is no identified funding source sufficient to cover this cost.

WHY PRIVATE ENTERPRISE ALONE CANNOT ELIMINATE BLIGHT

The Agency has historically encouraged property owners to invest in improving their property. In fact, the Agency has provided funds to help leverage private investment in rehabilitation and new development (the North Shore Business Park, Promedia, and Catellus projects are examples of such a public/private partnerships). Although the City and the Agency will continue to leverage private financing sources to fund projects, these have not and likely never will be sufficient for the type and amount of improvements required.

Assessment Districts and Mello-Roos Community Facilities Districts are examples of public/private partnership financing mechanisms where the actual cost of financing is borne by private interests, however, the mechanism must be facilitated by a governmental entity. Assessment districts are becoming more widespread in the State as a means to pay for improvements. Assessments are levied upon properties within a designated area to fund improvements directly benefitting that area, and are paid in association with property tax. The use of assessment districts is limited and regulated by state law, and are most commonly related to street improvements, landscape and lighting, and parks. However, in an area such as the Project

Area that already faces challenges in attracting private investment, imposing additional taxes through assessments on property may in fact deter private investment by increasing costs paid annually by property owners. Additionally, the City Council cannot form a district over a property if the owner disapproves, making creation of new districts very challenging. Assessment districts impose a financial burden that area businesses and potential developers may be unable to bear. As indicated by the continued presence of blighting conditions, which can be found in the Dynamite Project Area and Added Area, some property owners do not have the resources to invest in their property and also pay for area-wide improvements such as those that may be funded through assessment districts. The City has successfully used Assessment Districts to help implement the North Shore Business Park, and construct improvements to Sycamore Avenue, John Muir Parkway and the Tsushima Bridge, but this technique was successful largely because there was one major land owner. Where possible, the City will continue to use this financing resource.

Similar to Assessment Districts, the 1982 Mello-Roos Community Facilities Act authorized the formation of a Community Facilities District (“CFD”) to finance capital improvement projects and to pay for ongoing operations and maintenance of certain facilities. Formation of a CFD requires extensive front-end investment and the affirmative vote of two-thirds of the affected property owners where the vote is weighted based on the quantity of acres owned. For this reason CFDs are typically most successful where only one or a very limited number of property owners are involved – usually in vast undeveloped areas under a single ownership. These features make successful CFDs very difficult to accomplish within redevelopment project areas, including the Project Area. Similarly Public Utility Districts provide a mechanism for issuing bonds secured by the revenues of a utility district to pay for capital improvements, but these too require approval by a majority vote of residents of the district. This constraint makes their use in redevelopment project areas rather uncommon.

Business Improvement Districts (“BID”) and Property and Business Improvement Districts (“PBID”) allow business districts to establish an assessment that generates revenue to support enhanced services to a designated area. BIDs are financed through an additional fee paid by businesses within the designated area, and the fee is typically added to the annual business licensing charges. PBIDs provide for an assessment on commercial property and typically result in substantially more revenue generation. PBIDs are therefore more apt to have a greater positive impact on the local commercial district, however, their creation requires petition support from businesses that would pay more than 50 percent of the annual fee to be collected from the proposed area. They also have a cap on assessments and a five-year maximum life requiring a new petition process to renew the fee. The Agency could provide an important source of seed capital to help bring such a funding source to fruition. However, the amount of capital that could be raised from the limited number of commercial enterprises in the Project Area would be very limited. The revenue may be helpful in funding promotion and management activities, but would not be adequate to fund the level of infrastructure and capital investment needed to address blighting conditions throughout the area as identified elsewhere in this Report.

Finally, the prevalence of dilapidated and deteriorated buildings, depreciated or stagnant property values, and other adverse physical and economic conditions affecting individual properties, as detailed in Section B of this Report, is itself a direct indicator that the private sector alone has been unable to marshal the private debt and equity resources to overcome such problems, and needs a catalyst, in the form of strategic redevelopment investment by the Agency, to overcome these adverse private property conditions.

For these reasons, it cannot be reasonably expected that private enterprise acting alone would have the means to accomplish redevelopment of the Project Area. Without the provision of tax increment revenue financing, sufficient revenue would not be available to fund the needed programs and improvements.

ANALYSIS OF THE NEED TO EXTEND THE DYNAMITE PLAN TO ALLELVIAE BLIGHT

Extending the plan duration and the time to collect tax increment for ten years in the Dynamite Project Area is necessary to continue revitalization efforts in the Project Area. As shown on Table E-1 over \$325 million of capital expenditures are needed to implement the Plan and alleviate blighting conditions. In addition, the Agency must continue to provide for affordable housing, and operating and administrative costs.

CRL Section 33333.11(h)(1) requires that this Report also contain all of the information required in the preliminary report prepared pursuant to Section 33333.11(e) of the CRL. Therefore, in accordance with the CRL, the following detailed description is included of the amount of tax increment revenues projected to be

REDEVELOPMENT AGENCY OF THE CITY OF HERCULES

generated during the period of the ten year extension and the reasons why the projects can not be completed without extending the time limits on the effectiveness of the Existing Plan and receipt of tax increment revenues.

Tax Increment Revenues Projected to be Generated During the Period of the Extension (including amounts deposited in the LMIHF and to be paid to affected taxing agencies) (CRL Section 33333.11(e)(6))

It is estimated that the 10 year extension will increase the amount of Gross Tax Increment by \$607 million (NPV of \$81 million), of which \$182 million will be allocated to Affordable Housing (NPV of \$24 million), and \$249 million will be paid to affected taxing agencies (NPV of \$33 million). This leaves an additional \$176 million to pay for non-housing projects and debt (NPV of \$24 million).

Sources and Amounts of Moneys Other than Tax Increment Revenues that are Available to finance the Projects and Programs (CRL Section 33333.11(e)(6))

The Agency and City have applied for grant and loan funds including \$27.2 million for FY 2010-11 to assist with the development of the Intermodal Transit Center at the Waterfront. The Agency/City will continue to apply for other grants and loans to secure adequate financing for eligible projects. The Agency will also leverage private investment into appropriate elements of the projects which is estimated at a level that exceeds \$2 billion. It is the private investment that will create the tax increment that will help to fund necessary infrastructure and public facilities.

Reasons Why the Remaining Blight Cannot be Expected to be Reversed or Alleviated by Private Enterprise or Governmental Action, or Both, Without the Use of the Tax Increment Revenues Available Because of the 2009 Amendment (CRL Section 33333.11(e)(6))

AND

The reasons why the projects or programs cannot be completed without extending the time limits on the effectiveness of the plan and receipt of tax increment revenues (CRL Section 33333.11(e)(5))

Implementation of projects, particularly in the Dynamite Project Area, will require significant investment. Private enterprise will be the primary investor into new development, but the clean up of hazardous materials, site preparation and construction of infrastructure to facilitate the new development will require significant public investment. Extending the life of the Dynamite Project Area will provide additional tax increment revenue during years 2036 to 2046 but more importantly will enhance the Agency's ability to leverage tax increment in the short term. By adding ten years to the end of the Project, the Agency can issue longer term bonds for a longer period of time. With the extension, between now and 2017 the Agency can issue bonds with at least a 30 year term for repayment. Bonds with 30-year repayment terms are not possible without the extension (the last year for such bonds was 2007). By way of example, if \$1 million in annual tax increment is used to leverage 30-year bonds, the par value of such bonds is approximately \$13.8 million. This is reduced to \$12.8 par value if only 25-year bonds can be issued, and is reduced to \$11.5 million in par value if 20-year bonds are issued. The extension will allow the Agency greater access to funding in the near-term. Without this additional capital, implementation projects will continue to be delayed and in fact may never be financial feasible.

REASONS FOR CONTINUED USE OF TAX INCREMENT

The continued use of tax increment revenue must be included in the Updated 2009 Redevelopment Plan because other sources are not available or are insufficient to finance the remaining costs of redeveloping the Project Area. Continued utilization of tax increment financing, as made possible through the proposed Amendment, will provide the resources to develop a consistent and direct approach to activities and programs needed to eliminate blight, provide for the improvement of infrastructure, and aid in the expansion of the Project Area's economic base. When adverse conditions are not addressed, the resulting physical and financial impacts imposed by these conditions will exacerbate existing blighting conditions. It will cause serious economic hardships and undue disruption of the lives and activities of people working in the Project Area and its surrounds.

SUMMARY

Although the Agency will attempt to use other available financing programs, these may not be sufficient for the type and amount of improvements required. Assessment and Community Facility Districts, for example, impose a financial burden that area businesses and potential developers may be unable to bear. As indicated by the continued presence of blighting conditions, which can be found in the Dynamite Project Area and Added Area, some property owners do not have the resources to maintain their properties, much less rehabilitate them. The Agency does not currently have, nor expect to have, the available financial resources to fund the magnitude of improvements necessary to reverse the adverse conditions present in the Project Area.

The provision of tax increment revenue must be included in the Plan because other sources are not available or are insufficient to finance the costs of redeveloping the Project Area. Utilization of tax increment financing will provide the resources to develop a consistent and direct approach to activities and programs needed to eliminate blight, provide for the improvement of infrastructure, and aid in the expansion of the Project Area's economic base. When adverse conditions are not addressed, the resulting physical and financial impacts imposed by these conditions will exacerbate existing blighting conditions. It will cause serious economic hardships and undue disruption of the lives and activities of people working and living in the Project Area and its surroundings.

Therefore, it cannot be reasonably expected that private enterprise acting alone would have the means to accomplish redevelopment of the Project Area. Without the provision of tax increment revenue financing, sufficient revenue would not be available to fund the needed programs and improvements.

**SECTION E:
RELOCATION PLAN**

Section 33352(f) of the CRL requires that this Report include a plan and method of relocation for the Project Area. Additionally, Section 33411 of the CRL requires that the Agency prepare a feasible plan for the relocation of families or persons that will be temporarily or permanently displaced from housing facilities in the Project Area, and for nonprofit local community institutions that will be temporarily or permanently displaced from facilities actually used for institutional purposes in the Project Area.

Pursuant to the CRL, the Agency previously prepared Methods of Relocation for the Existing Project Areas ("Relocation Methods") and incorporated the Relocation Methods in the Original Reports at the time each constituent subarea of the Merged Project Area was adopted. The Relocation Methods are to be made applicable to any required relocation activity under the proposed 2009 Updated Redevelopment Plan (including in the Added Area). The Agency is scheduled to adopt a resolution on March 24, 2009, approving the draft Relocation Methods for public review, and final Relocation Methods are subsequently scheduled to be adopted by resolution of the Agency on May 26, 2009. The draft Relocation Methods is provided as Appendix B of this Report.

In addition, if the 2009 Updated Redevelopment Plan is adopted and implemented, should any actions be undertaken which include the relocation of residents or businesses, such actions will adhere to the State Relocation Law (Government Code 7260 et seq.) and the State Relocation Guidelines, as those regulations may be amended by the State from time to time, and the Relocation Methods, as previously prepared and in effect and as set forth below. Any amendments to the State Guidelines of State Relocation Law shall automatically be incorporated without the need for further action by the Agency.

As provided in Section 33411.1 of the CRL, the Agency shall not displace from housing units, persons or families of low- and moderate-income unless and until there is a suitable housing unit available and ready for occupancy by such displaced person or family at rents comparable to those at the time of their displacement. Further, such relocation housing shall be decent, safe, sanitary and suitable to their individual needs; located in areas not less desirable than the Project Area; with comparable access to public utilities and commercial facilities. The relocation area must also be reasonably accessible to their places of employment and priced within their financial means (all of the foregoing as defined in State laws and regulations).

**SECTION F:
ANALYSIS OF THE PRELIMINARY PLAN**

CRL Section 33322 requires the formation of a preliminary plan as part of the process when adopting a new redevelopment plan or amending an existing redevelopment plan to add new territory. The Planning Commission adopted Resolution No. 07-11 on December 17, 2007, approving the Preliminary Plan for the Added Area.

Section 33352(g) of the CRL requires the inclusion of an analysis of the Preliminary Plan for the Added Area. In accordance with CRL Section 33324, the Preliminary Plan described the boundaries of the Added Area and included general statements of land uses and of the layout of principal streets, population densities, building intensities and standards proposed as the basis for the redevelopment of the Added Area. The Preliminary Plan addressed how the Added Area would attain the purposes of the CRL. The Preliminary Plan also discussed how the proposed redevelopment of the Added Area is consistent with the General Plan and described the impact of the project upon residents of the surrounding neighborhoods. A copy of the Preliminary Plan is incorporated into this Report by reference.

The Preliminary Plan, as the initial document produced in this process of adopting the 2009 Amendment, conforms to the requirements of the CRL as noted above. The Preliminary Plan is generalized and nonspecific in detail in its parts, evidencing its purpose as a preliminary document providing directional guidelines.

**SECTION G:
REPORT AND RECOMMENDATION OF THE PLANNING COMMISSION**

Sections 33333.11(h)(2) and 33352(h) of the CRL require inclusion of a report of the Planning Commission. The Planning Commission is required to review the proposed Updated 2009 Redevelopment Plan and determine its conformance with the City's General Plan.

CRL Section 33333.11(f) requires that the Agency transmit the Plan to the Planning Commission no less than 120 days prior to the joint public hearing on the 2009 Amendment, upon which the Planning Commission has 30 days to provide its report and recommendation on the 2009 Amendment. In accordance with the CRL, the Agency duly transmitted the Plan to the Planning Commission. On January 20, 2009, more than 120 days prior to the scheduled joint public hearing on the Amendment, the Planning Commission adopted Resolution No. 09-02 acknowledging receipt of the Plan.

The deadline for the Planning Commission's report and recommendation on the Plan passed on February 20, 2009. To date, no report had been provided by the Planning Commission regarding the Plan.

The Planning Commission is tentatively scheduled on April 20, 2009 to consider a resolution finding that the 2009 Amendment conforms to the General Plan and recommends that the City Council adopt the Amendment.

**SECTION H:
REPORT AND RECOMMENDATION OF THE PROJECT AREA COMMITTEE**

Pursuant to Section 33385.3 of the CRL, a Project Area Committee (“PAC”) is required if the Agency proposes to amend a redevelopment plan to: (1) grant the authority to the Agency to acquire by eminent domain property on which persons reside in a project area in which a substantial number of low- and moderate-income persons reside; or (2) add territory in which a substantial number of low- and moderate-income persons reside and grant the authority to the Agency to acquire, by eminent domain, property on which persons reside in the added territory.

The 2009 Amendment proposes to reinstate eminent domain authority over certain portions of the Dynamite Project Area (as seen in Exhibit A-1) and to add approximately 58.65 acres of primarily vacant and industrial land uses. However, because those portions of the Dynamite Project Area where the Agency seeks to reinstate eminent domain authority and the Added Area do not include residential uses, there is no requirement to form a PAC. Therefore, on December 9, 2008, City Council adopted Resolution No. 08-165, establishing there was no need to form a PAC.

However, while there is no requirement for a PAC, as defined by the CRL, the Agency has taken steps to ensure that local residents, business owners and other interested parties are aware of, and involved in, the Amendment.

Staff included a story about the 2009 Amendment on the cover of the Agency’s most recent Redevelopment Newsletter which was sent to all homeowners in the Project Area. Agency staff has also posted all documents related to the Amendment on the City’s website.

Notices of a public forum meeting and joint public hearing, tentatively scheduled for May 13, 2009, and May 26, 2009, respectively, will be mailed to all Project Area property owners, residents, business owners, community organizations, and affected taxing agencies. Additionally, notices are being duly published in the West County Times (a local newspaper of general circulation) in accordance with the CRL.

Collectively, these measures ensure that the views of local residents and business owners as well as those of other interested parties can be made known.

**SECTION I:
STATEMENT OF GENERAL PLAN CONFORMANCE**

Section 33352(j) of the CRL requires a report of General Plan conformance per Section 65402 of the Government Code. The Amendment does not contain provisions which would alter land use designations, nor does the proposed Amendment affect the land use provisions of the Existing Plan. As set forth in Section G, the Planning Commission is scheduled to make findings regarding General Plan conformance on April 20, 2009.

**SECTION J:
CALIFORNIA ENVIRONMENTAL QUALITY ACT DOCUMENTATION**

Sections 33333.11(h)(3) and 33352(k) of the CRL require that this Report include the environmental documentation to be prepared for the Amendment pursuant to the California Environmental Quality Act ("CEQA"). An Environmental Impact Report ("EIR") for the 2009 Amendment (California State Clearinghouse Number 2008112049) was prepared pursuant to CEQA guidelines by Impact Sciences. A copy of the draft EIR is included under separate cover and is incorporated herein by reference.

**SECTION K:
REPORT OF THE COUNTY FISCAL OFFICER**

CRL Section 33352(l) requires that this Report include the report of the county fiscal officer for the Added Area ("Base Year Report") as required by CRL Section 33328. The 2008-09 Base Year Report for the Added Area is included at the end of this Report as Appendix B.

SECTION L: NEIGHBORHOOD IMPACT REPORT

CRL Sections 33333.11(h) and 33352(m) require the inclusion of a neighborhood impact report. Pursuant to CRL Section 33352(m), the following topics must be addressed in the Neighborhood Impact Report: relocation, traffic circulation, environmental quality, availability of community facilities and services, effect on school population and quality of education, property assessments and taxes, and other matters affecting the physical and social quality of the neighborhood. The Neighborhood Impact Report must also discuss the impact the redevelopment project will have on low and moderate income persons or families in the following areas: the number of dwelling units to be removed or destroyed; the number of low or moderate income persons or families expected to be displaced; the general location of housing to be rehabilitated, developed, or constructed; the number of dwelling units housing persons and families of low or moderate income planned for construction or rehabilitation; the projected means of financing the aforementioned dwelling units; and the projected timetable for meeting the Plan's relocation, rehabilitation and replacement housing objectives.

The aforementioned information was previously studied and prepared for the Neighborhood Impact Reports included in the Original Reports for the Dynamite Project Area and Project Area 2 at the time of adoption. Extending the time period on the effectiveness of the Existing Plan for the Dynamite Project Area does not impact what has already been studied for the Dynamite Project Area. Additionally, the portions of the Dynamite Project Area where the Agency is proposing to reinstate its eminent domain authority does not include any parcels containing housing occupied by persons of low- or moderate-income. Therefore, no additional study with regards to the Neighborhood Impact Report is required for the Dynamite Project Area.

Finally, the Added Area contains no housing, or persons of low- or moderate-income, and therefore does not warrant a Neighborhood Impact Report. Nonetheless, the Updated 2009 Redevelopment Plan does envision the construction of 810 residential units in the Added Area. The Agency will comply with CRL Section 33413(b) which requires that a minimum of 15% of all new and substantially rehabilitated housing units developed within a project area be available to persons and families of low or moderate income.

In addition to the Neighborhood Impact Report, the following information is provided in accordance with requirements contained in CRL Section 33328.1(b). However, as noted below, the school districts involved did not respond to requests for participation, and the Agency was required to provide its own analysis.

As explained elsewhere in this Report, the 2009 Amendment involves new residential development on two sites (Hilltown and Sycamore Crossing) that will be added to the Merged Project Area upon adoption of the Amendment. As noted above, it is anticipated that 810 residential units will be developed between the two sites.

The DOF's most recent persons per household factor for Hercules is 2.998². If this factor remains constant, then the resulting population would be approximately 2,430 persons. A separate study that examined population per household trends contained in projections by the Association of Bay Area Governments indicates a slight (4%) decline in this factor for west Contra Costa County as a whole between 2000 and 2035³.

Regarding future students, the Agency's consultant staff contacted local school districts to seek estimates of future facility needs based on the growth anticipated in the Added Area. When these informal requests for assistance failed to succeed, a letter was sent by the City Manager to each of the districts with a similar request.

² State of California, Department of Finance, E-5 Population and Housing Estimates for Cities, Counties and the State, 2001-2008, with 2000 Benchmark. Sacramento, California, May 2008.

³ Los Medanos College, Office of Institutional Research, "Person per Household Projections: 2000-2035," and found at: <http://www.losmedanos.edu/groups/research/PersonPerHousehold.asp>

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No information was forthcoming. For this reason, the City has undertaken the task of estimating future student impacts. In 2008, the West Contra Costa Unified School District (“WCCUSD”) commissioned a study that examined student population projections for each of its schools⁴. As part of this effort, district-wide student yield factors were calculated that estimate the number of new students that would result from each new residential unit.

The factors, as presented on page 6 of the report, are as follows:

<i>Housing Type</i>	<i>K - 6 Students</i>	<i>7-8 Students</i>	<i>9-12 Students</i>	<i>Total</i>
Single Family Detached	0.21	0.056	0.147	0.413
Single Family Attached	0.047	0.015	0.014	0.076
MultiFamily Attached	0.333	0.154	0.185	0.672

The number and type of units that are projected in the two development areas that constitute the Added Area are as follows:

Hilltown	640 single family attached units (condominiums)
Sycamore Crossing	57 single family attached units (condominiums)
	<u>113</u> multi-family units (apartments)
Total	810

The absence of single family detached housing units in the proposed development results in a relatively low number of students being generated by the anticipated residential development. Given the character of the area and its urban, transit oriented development flavor, this is not a surprising land use mix or student pattern.

Utilizing the WCCUSD student yield factors results in the following student projections.

<i>Housing Type</i>	<i>Number of Units</i>		<i>K - 6</i>		<i>7 - 8</i>		<i>9 -12</i>		<i>TOTAL Students</i>
	<i>Hilltown</i>	<i>Syc Crsg</i>	<i>Yield</i>	<i>Students</i>	<i>Yield</i>	<i>Students</i>	<i>Yield</i>	<i>Students</i>	
Single Family Detached	0	0	0.21	0	0.056	0	0.147	0	0
Single Family Attached	640	57	0.047	32.759	0.015	10.455	0.014	9.758	52.972
MultiFamily Attached	0	113	0.333	37.629	0.154	17.402	0.185	20.905	75.936

It should also be noted that the WCCUSD study projected only slight changes in the District. It forecasts that the K-6 grade levels would decline slightly over the 10-year projection period, the 7-8 grade levels would remain very stable, and the 9-12 grade levels would decline for several years, then increase.

No similar student yield information was found to use as a basis for the projection of future community college enrollees. However, it seems reasonable – and indeed is probably conservative – to use the same factors as for the 9 – 12 grade ranges. Clearly, some of the high school graduates will not attend college and others who go to college will go to four year institutions rather than community college. On the other hand, a number of older adults return to college as they change careers, etc., and these individuals can be expected to spend

⁴ “Student Population Projections School Years 2009/10 – 2018/19,” prepared by Davis Demographics & Planning, Inc., for West Contra Costa Unified School District and available at: http://www.wccusd.k12.ca.us/Fiscal/School_closure/Student%20Propulation%20Projections%202008.pdf

time at the community college. Thus, using the same numbers as the high school totals (approximately 30 students from the units projected in Hilltown and Sycamore Crossing) appears reasonable.

Given the low number of students involved, no impacts are anticipated beyond those that would be mitigated through the normal payment of development fees at the time of construction.

**SECTION M:
SUMMARY OF THE AGENCY'S CONSULTATIONS WITH AFFECTED TAXING ENTITIES AND OTHER
INTERESTED PARTIES AND RESPONSES TO EXPRESSED CONCERNS REGARDING THE 2009
AMENDMENT**

The Agency has offered to consult on several occasions with all potentially affected taxing entities. On February 25, 2008, the Agency transmitted to all potentially affected taxing entities a Statement of Preparation of a Preliminary Redevelopment Plan for the Amendment and invited them to consult with the Agency based on a fiscal year 2007-08 base year for the Added Area. Subsequently, on October 31, 2008, the Agency mailed to all potentially affected taxing entities a revised Statement of Preparation of a Preliminary Redevelopment Plan for the Amendment and advised them that the base year used for the purposes of calculating tax increment in the Added Area would be based on the Contra Costa County Assessor's 2008-09 tax roll. Again, the Agency offered to consult with the taxing entities.

Furthermore, on January 23, 2009, the Agency forwarded to all affected taxing entities, DOF, and HCD the Updated 2009 Redevelopment Plan and the Preliminary Report for the 2009 Amendment for review and consultation. Included with this transmittal, and in accordance with CRL Section 33333.11(c), the Agency again offered to consult with the potentially affected taxing entities regarding the 2009 Amendment and notified each affected taxing entity that any written comments would be included in the report to the legislative body.

Notices of the joint public hearing on the Amendment are tentatively scheduled to be sent to each affected taxing entity on April 10, 2009, in accordance with the requirements of the CRL.

As of the date of preparation of this draft Report, no request for consultation regarding or written objection to the 2009 Amendment had been received from any potentially affected taxing entity, DOF, HCD, or any other interested party.

Summaries of and responses to any future consultation or written objections regarding the 2009 Amendment will be considered by the City Council prior to adopting the 2009 Amendment.

**SECTION N:
A DESCRIPTION OF EACH BOND SOLD BY THE AGENCY**

CRL Section 33333.11(h)(1) requires that this Report include a description of each bond sold by the Agency to finance or refinance the Dynamite Project Area. According to the CRL, this description shall include the following information for each bond:

- Amount of remaining principal;
- Annual payments; and
- Date that the bond will be paid in full.

The amount of remaining principal and the date that the bond will be paid in full for each bond issued by the Agency which is paid for in full, or part, by tax increment revenues collected from the Merged Project Area (inclusive of the Dynamite Project Area) is presented below in Table N-1.

MERGED PROJECT AREA BONDS			Table N-1
HERCULES REDEVELOPMENT AGENCY - 2009 AMENDMENT			
<i>Bond</i>	<i>Value (Original)</i>	<i>Principal Balance 12/7/2008</i>	<i>Pay Off Date</i>
Series 2005	\$56,260,000	\$52,180,000	8/1/2020
Series 2007 A	\$60,555,000	\$58,440,000	8/1/2027
Series 2007 A (taxable)	\$13,130,000	\$12,910,000	8/1/2033
Series 2007 B	\$12,760,000	\$12,525,000	8/1/2022

The annual schedule of bond debt payments is presented in Table N-2 on the following page.

REDEVELOPMENT AGENCY OF THE CITY OF HERCULES

ANNUAL BOND DEBT PAYMENT SCHEDULE						Table N-2
HERCULES REDEVELOPMENT AGENCY- 2009 AMENDMENT						
Year	Non-Housing Bonds			Housing Bonds		
	Series 2007 A	Series 2007 B	Total	Series 2005	Series 2007 A	Total
2008	\$1,017,290.54	\$831,380.85	\$1,848,671.39	\$3,996,395.00	\$3,883,293.15	\$7,879,688.15
2009	\$1,014,268.76	\$829,986.26	\$1,844,255.02	\$4,000,145.00	\$3,875,808.76	\$7,875,953.76
2010	\$1,016,068.76	\$829,986.26	\$1,846,055.02	\$3,996,145.00	\$3,885,608.76	\$7,881,753.76
2011	\$1,017,043.76	\$874,586.26	\$1,891,630.02	\$3,999,525.00	\$3,881,358.76	\$7,880,883.76
2012	\$1,017,193.76	\$871,896.26	\$1,889,090.02	\$4,000,005.00	\$3,879,358.76	\$7,879,363.76
2013	\$1,016,518.76	\$873,806.26	\$1,890,325.02	\$3,999,705.00	\$3,874,358.76	\$7,874,063.76
2014	\$1,014,418.76	\$869,743.76	\$1,884,162.52	\$3,999,365.00	\$3,876,358.76	\$7,875,723.76
2015	\$1,016,463.76	\$870,268.76	\$1,886,732.52	\$4,000,315.00	\$2,644,858.76	\$6,645,173.76
2016	\$1,012,368.76	\$875,175.00	\$1,887,543.76	\$3,996,585.00	\$2,625,408.76	\$6,621,993.76
2017	\$1,017,418.76	\$869,252.50	\$1,886,671.26	\$3,998,155.00	\$2,640,918.76	\$6,639,073.76
2018	\$1,016,043.76	\$872,492.50	\$1,888,536.26	\$3,999,655.00	\$2,615,231.26	\$6,614,886.26
2019	\$1,017,343.76	\$869,645.00	\$1,886,988.76	\$3,180,702.50	\$3,409,431.26	\$6,590,133.76
2020	\$1,017,143.76	\$871,160.00	\$1,888,303.76	\$3,181,672.50	\$3,381,431.26	\$6,563,103.76
2021	\$1,015,443.76	\$875,845.00	\$1,891,288.76	\$3,180,475.50	\$3,356,468.76	\$6,536,944.26
2022	\$1,017,243.76	\$869,400.00	\$1,886,643.76	\$3,178,387.50	\$3,339,293.76	\$6,517,681.26
2023	\$1,017,243.76	\$872,280.00	\$1,889,523.76	\$3,182,325.00	\$3,312,293.76	\$6,494,618.76
2024	\$1,014,781.26	\$871,830.00	\$1,886,611.26	\$3,181,812.50	\$3,283,793.76	\$6,465,606.26
2025	\$1,015,481.26	\$870,130.00	\$1,885,611.26	\$3,181,837.50	\$3,258,793.76	\$6,440,631.26
2026	\$1,014,037.50	\$872,200.00	\$1,886,237.50	\$3,182,137.50	\$3,227,043.76	\$6,409,181.26
2027	\$1,015,450.00	\$872,790.00	\$1,888,240.00	\$3,182,487.50	\$3,200,118.76	\$6,382,606.26
2028	\$1,014,412.50	\$876,900.00	\$1,891,312.50	\$3,182,625.00	\$3,166,843.76	\$6,349,468.76
2029	\$1,015,925.00	\$870,267.50	\$1,886,192.50	\$3,182,300.00	\$3,134,803.76	\$6,317,103.76
2030	\$1,014,681.26	\$872,435.00	\$1,887,116.26	\$3,181,275.00	\$3,106,353.76	\$6,287,628.76
2031	\$1,015,681.26	\$872,925.00	\$1,888,606.26	\$3,179,287.50	\$3,076,258.76	\$6,255,546.26
2032	\$1,013,618.76	\$870,437.50	\$1,884,056.26	\$3,181,100.00	\$3,039,518.76	\$6,220,618.76
2033	\$1,013,493.76	\$871,212.50	\$1,884,706.26	\$3,181,212.50	\$3,006,368.76	\$6,187,581.26
2034	-	-	-	\$814,375.00	\$5,337,293.76	\$6,151,668.76
2035	-	-	-	\$813,050.00	\$5,302,200.00	\$6,115,250.00
2036	-	-	-	-	\$6,115,400.00	\$6,115,400.00
2037	-	-	-	-	\$3,477,331.26	\$3,477,331.26
2038	-	-	-	-	\$3,475,700.00	\$3,475,700.00
2039	-	-	-	-	\$3,478,050.00	\$3,478,050.00
2040	-	-	-	-	\$3,473,875.00	\$3,473,875.00
2041	-	-	-	-	\$3,478,162.50	\$3,478,162.50
2042	-	-	-	-	\$3,475,212.50	\$3,475,212.50
Total	\$26,407,079.50	\$22,548,032.17	\$48,955,111.67	\$93,333,058.00	\$123,594,604.67	\$216,927,662.67

APPENDIX A

Amended Implementation Plan

APPENDIX 1

HERCULES REDEVELOPMENT AGENCY

IMPLEMENTATION PLAN

2005-2009 (2009 Revised)



Merged Dynamite and Project Area No. 2 with Revision to include 2009 Added Area

ABOUT THIS IMPLEMENTATION PLAN

This document is the revised 2004-05 through 2008-09 Five-Year Implementation Plan (“Implementation Plan”) for the Merged Dynamite, Project Area No. 2 and 2009 Added Area of the Hercules Redevelopment Agency (“Agency”). This Plan presents the Agency’s goals and objectives, anticipated projects and programs, and estimated expenditures for the five year planning period beginning in fiscal year 2004-05 and terminating at the end of fiscal year 2008-09.

Contents of the Implementation Plan

Section 33490 of the California Community Redevelopment Law, Health and Safety Code Section 33000 et seq. (“Law”), requires this Plan to include the following:

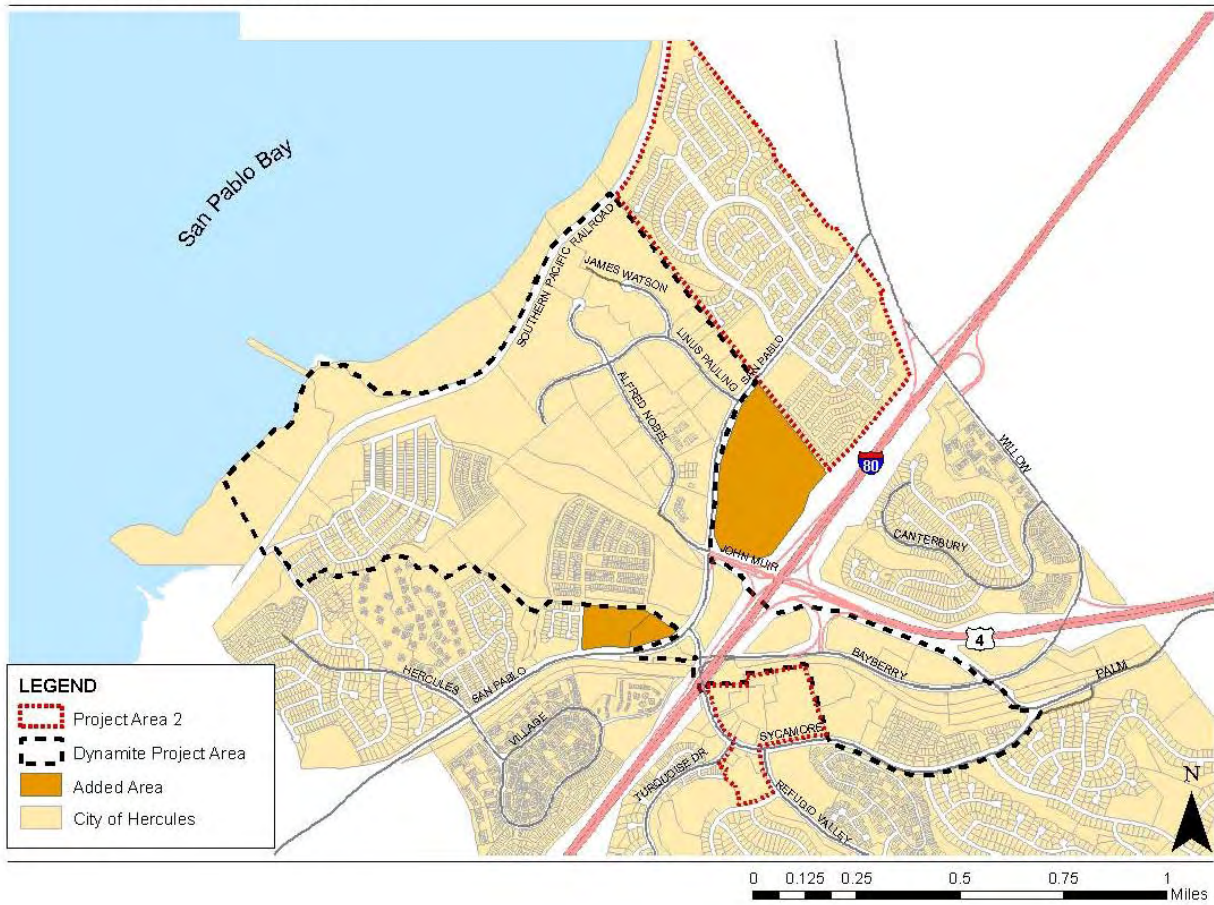
- Specific Agency goals and objectives for the Merged Dynamite and Project Area No. 2 (“Merged Project Area”);
- Specific programs, potential projects, and estimated expenditures proposed by the Agency over the next five years, and;
- An explanation of how Agency goals, objectives, programs, and expenditures will eliminate blight within the Merged Project Area and improve and increase the supply of housing affordable to very low, low, and moderate-income households.

The Law also requires that this Plan address the Agency’s affordable housing production and replacement housing needs and achievements.

Pursuant to California Community Redevelopment Law Section 33490(a)(1)(B) the adoption of this Implementation Plan does not constitute a project within the meaning of the California Environmental Quality Act (“CEQA”).

REDEVELOPMENT PROJECT AREAS

PROJECT AREA - BOUNDARY MAP



ABOUT THE MERGED DYNAMITE, PROJECT AREA NO. 2 AND 2009 ADDED AREA

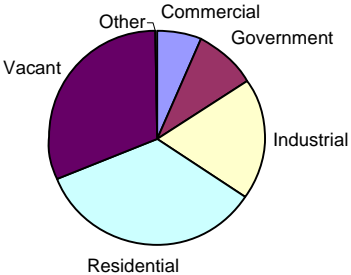
The Redevelopment Plan for the Dynamite Redevelopment Project Area was originally adopted on November 30, 1983. The Dynamite Project Area covers approximately 577 acres and is primarily dedicated to industrial and residential uses. The Dynamite Project Area was subsequently amended two (2) times (on April 26, 1994 by Ordinance No. 325 and on February 27, 1996 by Ordinance No. 333).

The Redevelopment Plan for Project Area No. 2 was originally adopted on April 13, 1999 by Ordinance No. 351 and encompasses 249 acres. Project Area No. 2 was adopted to redevelop a closed refinery and two shopping centers, and now includes primarily commercial and residential uses.

The Dynamite Project Area and Project Area No. 2 were merged on February 13, 2001 by Ordinance No. 363. That same amendment extended the effectiveness and time limit to collect tax increment for the Dynamite Project Area. The 826-acre Merged Project Area includes commercial, government, industrial and residential land uses.

The Merged Project Area was amended on March 8, 2005 by Ordinance No. 403 to increase the tax increment limit for the Dynamite portion of the Merged Project Area, eliminate the time limit on incurring indebtedness for the Dynamite portion of the Merged Project Area, and to combine the bond indebtedness limit for the Dynamite and Project Area No. 2 portions of the Merged Project Area.

The Merged Project Area is anticipated to be amended on May 26, 2009. This amendment will add approximately 58.65 acres of territory to the existing Merged Project Area; extend the life of the existing plan by an additional ten years for the Dynamite Project Area; and reinstate the Agency's eminent domain authority for a period of twelve years over certain portions of the Dynamite Project Area.

Notable Timeframes			What is There?
Redevelopment Plans			<p>885 Acres</p> 
Dynamite	Adopted 1983	Expires 2036	
Project Area No. 2	Adopted 1999	Expires 2030	
Added Area	Adopted 2009	Expires 2039	
Collect Tax Increment			
Dynamite		2046	
Project Area No. 2		2045	
Added Area		2054	
Implementation Plan			
	2005	2009	
Housing Compliance Plan			
(For Affordable Housing Program Planning)	2005	2014	

POSITIONING FOR THE FUTURE

In the last five years, the Agency has championed several successful projects and programs in the Merged Project Area:

- **BIO-RAD Headquarters Project:** The Agency entered into a Development and Owner Participation Agreement with BIO-RAD Laboratories for the proposed expansion of BIO-RAD's facilities. The owner has an immediate need for two new buildings for the Life Sciences Division, consisting of a 129,600 square foot research and development/manufacturing facility and an 80,300 square foot finished products warehouse/distribution facility. The owner projects that its long term facility needs will require the development of an additional 757,400 square feet of building space, which would result in a total build out of 1,182,200 square feet of construction on the 67.38 acre project site. Construction has begun on the first phase of this project (actually Phase II of the BIO-RAD corporate headquarters campus).
- **Promedia Project:** The Agency entered into an Owner Participation Agreement to develop a 57,600 square foot building (Phase I) and a 27,000 square foot building (Phase II) in the Dynamite Project Area. Construction of both phases of this project is complete.
- **Radstons Project:** The Agency entered into an Owner Participation Agreement to facilitate the improvement of the owner's 16,840 square feet of commercial space in the Dynamite Project Area.
- **Home Depot:** The Agency entered into a Disposition and Development Agreement with Home Depot USA, Inc. to facilitate the assembly of approximately 12.67 acres for the development of a Home Depot retail store in Project Area No. 2. Construction on this project is complete.
- **Hercules New Town Center:** The Agency entered into a Disposition and Development Agreement for the development of a mixed-use commercial and residential development with structured parking in the Dynamite Project Area. The DDA requires the project to include at least 25,000 square feet of commercial development and provides incentives for the developer to develop in excess of 300,000 square feet of building area, including a minimum of 50,000 square feet of commercial.

AMENDED AND RESTATED REDEVELOPMENT PLAN GOALS

The Dynamite Redevelopment Plan and the Redevelopment Plan for Project Area No. 2 were adopted in 1983 and 1999 (respectively) to address blighting conditions found in the Project Area. The two project areas were merged in 2001 by the adoption of the Merger and Amendment to the Redevelopment Plans for the Dynamite Redevelopment Project and Project Area No. 2. It is anticipated that the Added Area will be adopted and merged in 2009. The Merged Redevelopment Plan's goals are identified as the following:

 CLEAN	<p>The elimination of blight and environmental deficiencies in the Project Area. The establishment and implementation of performance criteria to assure high site design standards and environmental quality and other design elements that provide unity and integrity to the entire Project.</p>
 ACCESS	<p>The assembly of land into parcels suitable for modern, integrated development with improved pedestrian and vehicular circulation in the Project Area. The provision of adequate land for parking and open spaces.</p>
 GROW	<p>The replanning, redesign, and development of undeveloped areas that are stagnant or improperly utilized.</p>
 INVEST	<p>The strengthening of the economic base of the Project Area and the community by the installation of needed site improvements to stimulate new commercial/industrial expansion, employment, and economic growth.</p>
 SHOP	<p>The strengthening of retail and other commercial functions in the Project Area.</p>
 LIVE	<p>The strengthening and diversification of housing opportunities at all economic levels through the development of housing of high aesthetic and environmental quality. The expansion and/or improvement of the community's supply of low- and moderate-income housing.</p>
 PRESERVE	<p>The preservation and restoration of historic structures.</p>

OUR REDEVELOPMENT STRATEGY

The redevelopment strategy for Merged Project Area is based on alleviating and preventing the spread of blight and deterioration in the Project Area.





This strategy principally focuses on the following:








- The acquisition, installation, construction, reconstruction, redesign, or reuse of streets, utilities, curbs, gutters, sidewalks, traffic control devices, flood control facilities, and other public improvements.
- The rehabilitation, remodeling, demolition, or removal of buildings, structures, and improvements by present owners, their successors and the Agency.
- The rehabilitation, development, preservation, or construction of affordable housing in compliance with State Law.
- Providing the opportunity for participation by owners and tenants presently located in the Project Area and the extension of preferences to occupants desiring to remain or relocate within the redeveloped Project Area.
- Providing relocation assistance to displaced residential and nonresidential occupants in accordance with applicable State Law.
- The development or redevelopment of land by private enterprise or public agencies for purposes and uses consistent with the objectives of this Plan.
- The acquisition of real property by purchase, gift, devise, or any other lawful means, or, where it is deemed necessary, by exercising the power of eminent domain as permitted by Section 503 of this Plan and after conduct of appropriate public hearings.
- The combining of parcels, properties, site preparation, and construction of necessary off-site improvements for development and construction of residential/commercial/industrial facilities.
- Providing for open space.
- Managing of any property acquired by the Agency.
- Assisting in providing financing for the construction of commercial and industrial buildings to increase the economic base of the Project Area and the City, and the number of temporary and permanent jobs in the Project Area.








- The disposition of property including the lease or sale of land at the value determined by the Agency for reuse in accordance with this Plan.
- Providing for the retention of controls, and the establishment of restrictions or covenants running with the land, so that property will continue to be used in accordance with this Plan.
- The closure or vacation of certain streets and the dedication of other areas for public purposes.
- Providing replacement housing, if any is required.
- Applying for, receiving and utilizing grants and loans from federal or state governments or any other source.








PROPOSED REDEVELOPMENT PROGRAM – 2005 THROUGH 2009

Over the next five years, the Agency will implement the Merged Project Area redevelopment strategy by undertaking the following projects and programs. Note that the estimated project costs for these projects is the total cost and only a portion of the cost will be paid for using redevelopment funds.

Project/Description	Estimated Project Cost	Goals Achieved
<p>Wastewater Treatment Plant Plant upgrades to Digester and related units.</p> <p>This project will provide public facilities and infrastructure improvements needed for continued development and general welfare of the Merged Project Area.</p> <p><i>Timeframe..... 2006-07</i></p>	\$4,000,000	 CLEAN  INVEST
<p>Capital Corridor Rail Station Platform, track and access. Parking structures.</p> <p>This project will address the need for improved public transportation in the Project Area.</p> <p><i>Timeframe..... starts in 2009</i></p>	\$36,000,000	 ACCESS
<p>John Muir Parkway Improvements Thoroughfare and landscape improvement. Refugio Creek Bridge at Tsushima Street improvement. Refugio Creek Bridge at Bayfront Blvd improvement.</p> <p>This project will provide public infrastructure improvements to alleviate health hazards and improve transportation infrastructure.</p> <p><i>Timeframe..... 2008-09</i></p>	\$10,500,000	 ACCESS

Project/Description	Estimated Project Cost	Goals Achieved
<p>Point Park Access bridge, soil remediation, and park improvements.</p> <p>This project will alleviate public health hazards as well as provide improved public infrastructure.</p> <p><i>Timeframe..... TBD</i></p>	<p>\$15,000,000</p>	 ACCESS  CLEAN
<p>Hercules New Town Center Project to provide infrastructure and incentives enabling development on parcels at junction of Interstate 80 and State Route 4, along San Pablo and Willow Avenues. Project is required to overcome impediments to development on the parcels and intended to result in a transit-oriented Town Center for Hercules. Infrastructure includes circulation improvements on local roads and installation of utilities. Development incentives include mechanisms to encourage construction of adequate parking within complex programs on constrained sites. Incentives also provided to enable retail and commercial uses and master planning for transit-oriented development.</p> <p>This project will provide public infrastructure improvements for public transportation as well as facilitate the reuse of underutilized property to stimulate economic growth in the Project Area.</p> <p><i>Timeframe..... TBD</i></p>	<p>\$123,400,000</p>	 ACCESS  GROW  INVEST  SHOP
<p>Freeway Ramp Relocation Project to improve local road and freeway operation by replacing current Interstate 80 off/on-ramps at Willow Avenue with new ramps to the east at the State Route 4 overpass.</p> <p>This project will address the need for improved public transportation in the Project Area.</p> <p><i>Timeframe..... starts in 2009</i></p>	<p>\$20,000,000</p>	 ACCESS

Project/Description	Estimated Project Cost	Goals Achieved
<p>Sycamore Main Mixed use building and related improvements, low to moderate income housing, and parking improvements.</p> <p>This project will stimulate economic growth within the Project Area as well as provide infrastructure improvements and increase the City's stock of affordable housing.</p> <p><i>Timeframe..... 2009-2010</i></p>	<p>\$15,500,000</p>	 ACCESS  LIVE  SHOP
<p>Hill Town In 2007, a conceptual Initial Planned Development Plan (IPDP) was approved for the Hill Town site. It includes a multi-family residential community containing 640 dwelling units on approximately 28 acres, approximately 4,000 square feet of retail commercial, and passive open spaces and recreational spaces. The Agency will provide assistance for acquisition and easement removal.</p> <p>This project will stimulate economic growth within the Project Area and increase the City's stock of affordable housing.</p> <p><i>Timeframe..... starts in 2009</i></p>	<p>\$650,000</p>	 INVEST  LIVE  SHOP  GROW

Project/Description	Estimated Project Cost	Goals Achieved
<p>Sycamore Crossing The development is expected to include 140,000 square feet of retail commercial space, 25,000 square foot supermarket, 170,000 square feet of office space, 180 room hotel, 170 attached residential units, and two parking garages.</p> <p>This project will stimulate economic growth within the Project Area and increase the City's affordable housing stock.</p> <p><i>Timeframe.....starts in 2009</i></p>	<p>\$23,000,000</p>	 INVEST  LIVE  SHOP  GROW
<p>Restoration of Historic Clubhouse Project to acquire and adaptively re-use the Historic Clubhouse as an events facility, restaurant and other civic and commercial uses.</p> <p>This project will remediate the deterioration and dilapidation of a historic building while preserving the building's character.</p> <p><i>Timeframe.....starts in 2009</i></p>	<p>\$3,000,000</p>	 INVEST  PRESERVE  SHOP
<p>Total Estimated Redevelopment Investment</p>	<p>\$227,400,000</p>	

HERCULES REDEVELOPMENT AGENCY HOUSING COMPLIANCE PLAN

This Compliance Plan incorporates a summary of the Agency's affordable housing production activities and presents an affordable housing plan for the ten year planning period of 2005-2014.

The Housing Element of the City of Hercules ("City") outlines the City's strategy to preserve and enhance the community's residential character, expand housing opportunities for all economic segments and provide guidance and direction for local government decision making in all matters relating to housing.

The Housing Element specifies that the City will comply with the legal requirements of, and be in compliance with, the California Community Redevelopment Law (Health and Safety Code Section 33000 et seq.) ("CRL"). The City's Housing Element has identified the Agency's Affordable Housing Fund ("Housing Fund") as one of the primary funding vehicles for addressing the City's affordable housing goals. This Housing Compliance Plan is consistent with the Housing Element's goal of providing housing for all City residents.

POSITIONING FOR THE FUTURE

In the last five years, the Agency has championed several successful housing projects and programs within the Merged Project Area:




- Victoria by the Bay:** The Agency entered into a development and owner participation agreement with New Pacific Properties for the development of 744 market rate single family homes and 132 multi-family affordable units in Project Area No. 2. Construction began in 2003 and was completed in 2005. The Agency facilitated this development by pledging tax increment revenues to the developer.
- Sycamore Villas:** The Agency entered into an owner participation agreement with KB Homes for the development of 124 market rate single family homes. The Agency's participation in this project was a pledge of tax increment revenue generated by the project as well as a reimbursement for road improvements. As part of this agreement, the developer conveyed 1.86 acres of land for the development of affordable housing. A project to utilize this land for the development of 60 multi-family affordable rental units is in the planning phase.
- Cottage Lane:** Construction is complete on this project facilitated by an agreement between the Agency and Western Pacific Housing. This project resulted in 46 single family homes and 10 duet homes, 6 of which are affordable to low- and moderate-income households.
- Hercules New Town Center:** The Agency entered into a disposition and development agreement with Hercules New Town Center, LLC for the development of a 6.62 acre parcel in the Dynamite Project Area. This project would consist generally of mixed-use commercial and residential improvements with structured parking. The agreement requires that the developer meet the affordable housing obligation for the residential units constructed as part of this agreement.




Table 1: Housing Production During the Previous Plan Period

Project Name	Type	Tenancy	Affordability	Unit Count
Bridge/Hercules Senior Housing	Multi-family	Rental	Affordable	60
Cottage Lane	Single- & Multi-family	Sale	Market	56
Sycamore Villas	Single-family	Sale	Market	124
Refugio Villas	Single-family	Sale	Market	15
Victoria By The Bay	Single-family	Sale	Market	744
Victoria Greens	Multi-family	Rental	Affordable	132
Promenade	Single-family	Sale	Market	216
Baywood	Single-family	Sale	Market	76
Railroad Block	Single-family	Sale	Market	14
Total				1,437

PROPOSED AFFORDABLE HOUSING PROGRAM – 2005 THROUGH 2009

Over the next five years, the Agency will implement the residential component of the Merged Project Area’s redevelopment strategies by undertaking the following projects and programs:

Project/Description	Estimated Project Cost	Goals Achieved
<p>Sycamore Avenue Downtown This project will result in the construction of 53 units of multi-family affordable housing for very low income families.</p> <p>This project will increase the City’s stock of affordable housing.</p> <p><i>Timeline 2009-10</i></p>	\$15,500,000	
<p>Hercules Civic Senior This senior housing project will include 54 units that will be deed restricted for Very Low Income households.</p> <p>This project will increase the City’s stock of affordable housing.</p> <p><i>Timeline 2005-06</i></p>	\$700,000 (already paid)	
<p>Bayfront As a condition of approval of a market-rate housing development, the Agency will require the construction of 36 units of multi-family affordable housing, including 14 units affordable for very low income families.</p> <p>This project will increase the City’s stock of affordable housing.</p> <p><i>Timeline starts in 2009</i></p>	\$0	

Project/Description	Estimated Project Cost	Goals Achieved
<p>Hill Town At this time the development is expected to produce 640 units of multi-family housing, of which a portion will be affordable to very-low, low, and moderate income residents.</p> <p>This project will increase the City's stock of affordable housing.</p> <p><i>Timeframe..... starts in 2009</i></p>	\$650,000	
<p>Sycamore Crossing/Sycamore Main At this time the development is expected to produce 170 units of multi-family housing, of which a portion will be affordable to very-low, low, and moderate income residents.</p> <p>This project will increase the City's stock of affordable housing.</p> <p><i>Timeframe..... starts in 2009</i></p>	\$23,000,000	
<p>Hercules New Town Center This project will result in the construction of 41 units of multi-family affordable housing, including 16 units affordable for very low income families.</p> <p>This project will increase the City's stock of affordable housing.</p> <p><i>Timeframe..... 2009-10</i></p>	\$0	
Total Estimated Redevelopment Investment	\$15,700,000	

HOUSING PROGRAM COMPLIANCE OBJECTIVES

This section of the implementation plan addresses specific requirements in CRL with respect to prior affordable housing activities and the anticipated housing programs in the future.

Redevelopment agencies use implementation plans to establish ten-year objectives to achieve compliance with state law in its affordable housing programs. These housing goals generally fall into three categories:

- Housing Production – based on the number of housing units constructed or substantial rehabilitated over a ten year period, a redevelopment agency is to ensure that a percentage of these units are affordable to low and moderate income households.
- Replacement Housing – legal obligation for redevelopment agencies to cause the replacement of any housing units destroyed or removed as a result of an Agency redevelopment project within four years.
- Targeting Household Types – specific requirements on the amount of housing set aside funds a redevelopment agency must spend over a 10 year period on housing affordable to very low income households, low income households, and housing for residents under the age of 65.

Housing Production

To estimate the number of affordable housing units that need to be produced by the Agency, the Agency estimated the total number units constructed or substantially rehabilitated in the Merged Project Area and applied formulas established in CRL.

Table 2 below summarizes the production requirements based on housing produced prior to this Implementation Plan as required by Redevelopment Law. The number of affordable units required is based on statutory thresholds: 15% of all new or substantially rehabilitated housing units must be affordable to low- or moderate-income households and of those affordable units, 40% must be affordable to very low-income households. For Agency assisted units, 30% of new or substantially rehabilitated units assisted by the Agency must be affordable to low- or moderate-income households and 50% of those must be affordable to very low-income households. However, the Agency has not assisted in the construction of or substantial rehabilitation of any housing units. Therefore, Table 2 only applies to non-Agency assisted units.

	Pre-1994	1994 to 2004
Actual Housing Units Constructed or Substantially Rehabilitated in Project Area	36	1,437
Required Affordable Units ¹	5	216
<i>Very Low Units (40%)</i>	2	86
Notes: ¹ Based on 15% of actual/assumed units developed by entities other than the Agency. (No units developed by Agency.) Unit counts based on tax roll information provided by First American Real Estate Solutions and construction information provided by City of Hercules staff.		

The above table shows that a total of 1,473 residential units have been constructed in the Merged Project Area since adoption. This triggers the need for a total of 216 units (15%) affordable to low- and moderate-income households of which 86 units (40%) must be affordable to very low-income households.

The following Table 3 shows the affordable housing units produced to satisfy the requirements.

Table 3: Affordable Housing Units Constructed to Date						
Project Name	Total Units	Very Low	Low	Moderate	Total	Exp. Date
Inside the Merged Project Area						
Bridge/Hercules Senior Housing Development	60	30	30	0	60	2041
Victoria Greens	132	105	27	0	132	2058
Baywood	12	5	4	3	12	2035
Subtotal	204	140	61	3	204	
Outside the Merged Project Area						
Cottage Lane	6	0	3	3	6	2024
First Time Home-buyer and Home Preservation Programs	22	4	12	6	22	2035
Subtotal	28	4	15	9	28	
2-for-1 credit¹		2	7.5	4.5	14	
Total		142	68.5	7.5	218	
Requirement		86	--	--	216	
Surplus/(Deficit)		56	--	--	2	
¹ Two affordable units produced outside the Merged Project Area count as one unit toward the Agency's affordable housing requirement.						

Table 4 below summarizes the production goals over various time periods as required by CRL. The number of affordable units required is based on statutory thresholds, and the Agency is responsible for ensuring that the appropriate number of affordable units is created during a ten year period.

Table 4: Housing Production Needs in Project Area by Time Period				
	10 Year Forecast			RDA Plan Duration
	2005 to 2009	2010 to 2014	Total	2005 to 2032
Actual/Assumed Housing Units Constructed and Substantially Rehabilitated in Project Area	1,044	50	1,094	1,184
Required Affordable Units ¹ <i>Very Low Units (40%)</i>	157 63	8 3	165 66	179 72
Notes:				
¹ Based on 15% of actual/assumed units developed by entities other than the Agency. (No Agency assisted units have been developed.)				
CRL requires that for Agency assisted housing production, 30% of all units produced must be affordable to low- and moderate-income households and 50% of those affordable units must be affordable to very low-income households. For non-Agency assisted housing production, 15% of all units must be affordable to low- and moderate-income households and 40% of those affordable units must be affordable to very low-income households.				

As shown in the above table, the Agency anticipates a need for 165 affordable units (including 66 very low income units) to fulfill its production goals for the ten year period. The Agency does not anticipate directly assisting the construction or substantial rehabilitation of housing units. Table 5 below shows the planned 2005 to 2009 development by project.

Project Name	Type	Tenancy	Affordability	Unit Count
Bayside	Single- & Multi-family	Sale	Market	335
Sycamore Avenue Downtown	Multi-family	Rental	Affordable	60
Hercules Civic Senior	Multi-family	Rental	Affordable	54
Transit Village	Town Homes	Rental	Market	486
Bayfront Block	Live-Work	Sale	Market	109
Total				1,044

Fulfillment of these production goals over the next 10 years, including prior years, is shown on Table 6 below.

	Balance Required is Requirement minus Surplus minus Projected Development							
	Requirement (Table 4)		Surplus/(Deficit) (Table 3)		Projected Development		Balance Required	
Time Period	Total	VL	Total	VL	Total	VL	Total	VL
10 Year Forecast (2005-2014)	165	66	2	56	184	137	0	0
<i>In Project Area</i>					184	137		
<i>Outside Project Area¹</i>					0	0		
Duration of the Redevelopment Plan (2005-2032)	179	72	2	56	184	137	0	0
Notes:								
¹ Units produced outside project area credited on a 2-for-1 basis. Beginning in 2005, the Agency will have the authority to aggregate its production needs among project areas in its jurisdiction and credit units produced in other project areas on a 1-for-1 unit basis.								

As shown in Table 6, the Merged Project Area has a 163 unit affordable housing production need for the 10 year planning period (165 units based on projected development during the

10 year planning period less a 2 unit surplus), including 10 very low income units (66 units based on projected development less a 56 unit surplus). As described earlier in this Implementation Plan the Agency anticipates development of several affordable housing projects in the Merged Project Area over the 10 year planning period. Preliminarily, these projects could result in the development of 184 affordable units over this time frame (including 137 Very Low Income units). This will fulfill the Agency's requirement over the 10 year planning period. Additionally, it is anticipated that housing units will be constructed on the 2009 Added Area. These development projects are in the beginning stages and at this time the number of units can not be precisely determined. During the update to the Implementation Plan for the 2010-2015 planning period the Agency will be able to determine the number of units and include them in the housing projections. Due to the anticipated surplus of affordable units (as indicated in Table 6) and the Agency's anticipation that additional affordable units will be constructed in the 2009 Added Area, the Agency does not anticipate a Affordable housing deficit.

Replacement Housing

To date there has been no displacement of housing units in the Merged Project Area, and none is currently planned over the remaining term of the Plan. However, the Agency has no present plans, and is not aware of any private plans for redevelopment, which would cause the displacement of those homes. Thus, the Agency has no replacement housing production obligations.

Household Types

At a minimum, the Agency's low and moderate income housing set aside revenue is to be expended in proportion to the community's need for very low and low income housing, as well as the proportion of the population under the age of 65.

The Agency's low and moderate income housing fund had a balance of \$2,111,903 available on June 30, 2005. Over the five year period ending on December 31, 2009, staff conservatively estimates that the Merged Project Area will generate another \$9,970,072 in 20% housing set aside revenue.

Table 7: Projected Housing Fund Deposits	
Year	Projected Deposit
2005-06	\$1,858,087
2006-07	\$1,965,573
2007-08	\$2,006,745
2008-09	\$2,048,741
2009-10	\$2,091,576
Total	\$9,970,072

Future Housing Fund deposits would be subject to targeting specific household types as required by CRL and in accordance with the City’s Housing Element as described in Table 8 on the following page.

Upon adoption of this Housing Compliance Plan, the Agency will have the authority to expend Housing Funds either inside or outside the Merged Project Area in order to more effectively meet housing program objectives for the Agency.

Based on statistics from the Regional Housing Needs Assessment, used by local government to meet state requirement for affordable housing by category, the City's Housing Element, and 2000 City Census statistics, the following minimum thresholds for housing program expenditures would be required over the term of the Housing Compliance Plan.

Table 8a: Minimum Housing Program Expenditure Thresholds – by Income	
Household Type	Minimum Percentage of Housing Set Aside Expenditures over Implementation Plan
Very Low Income Households¹ (Based on community's need for housing for households earning less than 50% of County median income)	13%
Low Income Households¹ (Based on community's need for housing for households earning less than 80% of County median income)	8%
Notes: ¹ Percentage of very low and low income household expenditures based upon City of Hercules Regional Housing Needs Assessment in which 101 of the 792 units (13%) in the City's housing needs are applicable for very low income households and 62 of the 792 units (8%) are applicable for low income households.	
Table 8b: Minimum Housing Program Expenditure Thresholds – by Age	
Households Under Age 65² (Based on 2000 Census statistics)	93%
Notes: ² Percentage of expenditures for housing to households under the age of 65 based on 2000 Census data for the City, wherein 18,055 residents (93%) of the total population of 19,488 are under the age of 65.	

Housing Set Aside Expenditures Since January 2002. These proportionality requirements affect expenditures over a ten-year period, although the law permits the compliance initially for a period beginning in January 2002 and ending in December 2014. The chart below documents the amount of low and moderate income housing fund revenue used since January 2002 for these income categories:

Table 9: Housing Expenditures and Proportionality Since 2002					
Income Category	2002	2003	2004	2005	Period to Date
Very Low Income	\$199,847	\$204,223	\$471,731	\$580,270	\$1,456,071 (53.2%)
Low Income	\$98,711	\$100,805	\$366,632	\$239,317	\$805,465 (29.4%)
Moderate Income	\$0	\$191,400	\$81,350	\$204,250	\$477,000 (17.4%)
Total Expenditures	\$298,558	\$496,428	\$919,713	\$1,023,337	\$2,738,536 (100%)
Notes: 2005 Estimates based on preliminary projections as of October 2005 and subject to change. Table 10 explains the breakdown of these expenditures by project.					

Table 9 shows that the Agency is currently in compliance with the proportionality requirements for housing fund expenditures.

Units Assisted by Housing Fund. CRL also requires a recap of the number of the projects assisted by the Housing Fund over the past implementation plan period. The table below summarizes these statistics by project from January 2002 (when proportionality requirements took effect) through September 2005.

Table 10: Units Assisted by Housing Fund Since January 2002					
Project/Location	Housing Set-Aside Expenditures	Units Assisted by Housing Set Aside Fund (January 2002 – September 2005)			
		Very Low	Low	Mod.	Total
Family Housing					
Victoria Greens	\$917,336	105	27	0	132
Cottage Lane	\$0	0	3	3	6
Baywood	\$400,000	5	4	3	12
First Time Homebuyer and Home Preservation Programs	\$901,200	4	12	6	18
Subtotal	\$2,218,536	110	34	6	150
Senior Housing					
Bridge/Hercules Senior Housing	\$520,000	30	30	0	60
Subtotal	\$520,000	30	30	0	60
Totals	\$2,738,536	140	64	6	210
Notes: 2005 Estimates based on preliminary projections as of September 2005 and subject to change. This list does not include any planned projects for which Housing funds have not yet been expended.					

Based on the expenditures shown in Table 10, 19% of the Agency's expenditures went toward senior housing. Because 93% of the City's population is under the age of 65, the Agency's expenditures for senior housing are disproportionately high. However, since the

vast majority of the Agency's housing expenditures over the implementation plan period will go toward family housing, the Agency's expenditures for senior housing should drop below the 7% threshold over the duration of this Housing Compliance Plan.

Housing Set Aside Expenditures for the Duration of this Implementation Plan. Table 11 breaks down the Agency's planned expenditures over the next ten year period by income category and projects the Agency's compliance with the proportionality requirements by December 2014.

Table 11: Housing Expenditures and Proportionality 2002 to 2014			
Income Category	2002-2005 (Actual)	2006-2014 (Projected)	Duration of Compliance Period
Very Low Income	\$1,456,071	\$16,609,356	\$18,065,427 (76%)
Low Income	\$805,465	\$3,960,346	\$4,765,811 (20%)
Moderate Income	\$477,000	\$532,029	\$1,009,029 (4%)
Total Expenditures	\$2,738,536	\$21,101,731	\$23,840,267 (100%)

Table 11 indicates that the Agency's proposed projects will satisfy the proportionality requirement. Based on the City's Regional Housing Needs Assessment (as shown on Table 8), the Agency is required to spend at least 13% of its Housing Fund expenditures on Very Low Income housing and at least 8% of its Housing Fund expenditures on Low Income Housing. Of the projected expenditures shown above, \$1.3 million (6%) will be allocated to senior housing projects.

Housing Units Constructed During Prior Implementation Plan Without Housing Set Aside Funds. Since January 2000, no other funding source was used by the Agency to construct affordable units featuring long term covenant restricted units (affordable units with covenants of at least 45 years for ownership housing or 55 years for rental housing).

APPENDIX B

Relocation Plan

METHOD OF RELOCATION

City of Hercules

March, 2009

THE METHOD OF RELOCATION

The Agency has prepared Relocation Guidelines that will be in effect for the Added Area upon adoption of the Amendment. The Guidelines are currently in effect for the Merged Dynamite and Project Area No. 2 Project Area.

The Guidelines consist of the State Relocation Law (Government Code Sections 7260 through 7277), and the California Relocation Assistance and Real Property Acquisition Guidelines as established in the California Code of Regulation, Title 25, Division 1, Chapter 6 (“State Guidelines”), also known as 25 CCR 6000-6198.

The Agency does not anticipate that implementation of the Amendment will result in the relocation of businesses, residents, or local community institutions. If relocation is necessary, the Relocation Guidelines ensure that the Agency will meet its relocation responsibilities to any families, persons, or nonprofit local community institutions to be temporarily or permanently displaced as a consequence of the Plan’s implementation.

State Relocation Law is found on pages 2-19.

State Guidelines are found following page 19.

STATE RELOCATION LAW

CALIFORNIA GOVERNMENT CODE ¹
SECTION 7260-7277

7260. As used in this chapter:

(a) "Public entity" includes the state, the Regents of the University of California, a county, city, city and county, district, public authority, public agency, and any other political subdivision or public corporation in the state or any entity acting on behalf of these agencies when acquiring real property, or any interest therein, in any city or county for public use, and any person who has the authority to acquire property by eminent domain under state law.

(b) "Person" means any individual, partnership, corporation, limited liability company, or association.

(c) (1) "Displaced person" means both of the following:

(A) Any person who moves from real property, or who moves his or her personal property from real property, either:

(i) As a direct result of a written notice of intent to acquire, or the acquisition of, the real property, in whole or in part, for a program or project undertaken by a public entity or by any person having an agreement with, or acting on behalf of, a public entity.

(ii) As a direct result of the rehabilitation, demolition, or other displacing activity, as the public entity may prescribe under a program or project undertaken by a public entity, of real property on which the person is a residential tenant or conducts a business or farm operation, if the public entity determines that the displacement is permanent. For purposes of this subparagraph, "residential tenant" includes any occupant of a residential hotel unit, as defined in subdivision (b) of Section 50669 of the Health and Safety Code, and any occupant of employee housing, as defined in Section 17008 of the Health and Safety Code, but does not include any person who has been determined to be in unlawful occupancy of the displacement dwelling.

(B) Solely for the purposes of Sections 7261 and 7262, any person who moves from real property, or moves his or her personal property from real property, either:

(i) As a direct result of a written notice of intent to acquire, or the acquisition of, other real property, in whole or in part, on which the person conducts a business or farm operation for a program or project undertaken by a public entity.

(ii) As a direct result of the rehabilitation, demolition, or other displacing activity as the public entity may prescribe under a program or project undertaken by a public entity, of other real property on which the person conducts a business or farm operation, in any case in which the public entity determines that the displacement is permanent.

(2) This subdivision shall be construed so that persons displaced as a result of public action receive relocation benefits in cases where they are displaced as a result of an owner participation agreement or an acquisition carried out by a private person for, or in connection with, a public use where the public entity is otherwise

¹ Downloaded from state website March 10, 2009.

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=07001-08000&file=7260-7277>

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empowered to acquire the property to carry out the public use.

Except for persons or families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, who are occupants of housing that was made available to them on a permanent basis by a public agency and who are required to move from the housing, a "displaced person" shall not include any of the following:

(A) Any person who has been determined to be in unlawful occupancy of the displacement dwellings.

(B) Any person whose right of possession at the time of moving arose after the date of the public entity's acquisition of the real property.

(C) Any person who has occupied the real property for the purpose of obtaining assistance under this chapter.

(D) In any case in which the public entity acquires property for a program or project (other than a person who was an occupant of the property at the time it was acquired), any person who occupies the property for a period subject to termination when the property is needed for the program or project.

(d) "Business" means any lawful activity, except a farm operation, conducted for any of the following:

(1) Primarily for the purchase, sale, lease, or rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property.

(2) Primarily for the sale of services to the public.

(3) Primarily by a nonprofit organization.

(4) Solely for the purpose of Section 7262 for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display, whether or not the display is located on the premises on which any of the above activities are conducted.

(e) "Farm operation" means any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing these products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(f) "Affected property" means any real property that actually declines in fair market value because of acquisition by a public entity for public use of other real property and a change in the use of the real property acquired by the public entity.

(g) "Public use" means a use for which real property may be acquired by eminent domain.

(h) "Mortgage" means classes of liens that are commonly given to secure advances on, or the unpaid purchase price of, real property, together with the credit instruments, if any, secured thereby.

(i) "Comparable replacement dwelling" means any dwelling that is all of the following:

(1) Decent, safe, and sanitary.

(2) Adequate in size to accommodate the occupants.

(3) In the case of a displaced person who is a renter, within the financial means of the displaced person. A comparable replacement dwelling is within the financial means of a displaced person if the monthly rental cost of the dwelling, including estimated average monthly utility costs, minus any replacement housing payment available to the person, does not exceed 30 percent of the person's average monthly income, unless the displaced person meets one or more

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of the following conditions, in which case the payment of the monthly rental cost of the comparable replacement dwelling, including estimated average monthly utility costs, minus any replacement housing payment available to the person, shall not exceed 25 percent of the person's average monthly income:

(A) Prior to January 1, 1998, the displaced person received a notice to vacate from a public entity, or from a person having an agreement with a public entity.

(B) The displaced person resides on property that was acquired by a public entity, or by a person having an agreement with a public entity, prior to January 1, 1998.

(C) Prior to January 1, 1998, a public entity, or a person having an agreement with a public entity, initiated negotiations to acquire the property on which the displaced person resides.

(D) Prior to January 1, 1998, a public entity, or a person having an agreement with a public entity, entered into an agreement to acquire the property on which the displaced person resides.

(E) Prior to January 1, 1998, a public entity, or a person having an agreement with a public entity, gave written notice of intent to acquire the property on which the displaced person resides.

(F) The displaced person is covered by, or resides in an area or project covered by, a final relocation plan that was adopted by the legislative body prior to January 1, 1998, pursuant to this chapter and the regulations adopted pursuant to this chapter.

(G) The displaced person is covered by, or resides in an area or project covered by, a proposed relocation plan that was required to have been submitted prior to January 1, 1998, to the Department of Housing and Community Development or to a local relocation committee, or for which notice was required to have been provided to occupants of the property prior to January 1, 1998, pursuant to this chapter and the regulations adopted pursuant to this chapter.

(H) The displaced person is covered by, or resides in an area or project covered by, a proposed relocation plan that was submitted prior to January 1, 1998, to the Department of Housing and Community Development or to a local relocation committee, or for which notice was provided to the public or to occupants of the property prior to January 1, 1998, pursuant to this chapter and the regulations adopted pursuant to this chapter, and the person is eventually displaced by the project covered in the proposed relocation plan.

(I) The displaced person resides on property for which a contract for acquisition, rehabilitation, demolition, construction, or other displacing activity was entered into by a public entity, or by a person having an agreement with a public entity, prior to January 1998.

(J) The displaced person resides on property where an owner participation agreement, or other agreement between a public entity and a private party that will result in the acquisition, rehabilitation, demolition, or development of the property or other displacement, was entered into prior to January 1, 1998, and the displaced person resides in the property at the time of the agreement, provides information to the public entity, or person having an agreement with the public entity showing that he or she did reside in the property at the time of the agreement and is eventually displaced by the project covered in the agreement.

(4) Comparable with respect to the number of rooms, habitable space, and type and quality of construction. Comparability under this paragraph shall not require strict adherence to a detailed,

feature-by-feature comparison. While a comparable replacement dwelling need not possess every feature of the displacement dwelling, the principal features shall be present.

(5) In an area not subject to unreasonable adverse environmental conditions.

(6) In a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, facilities, services, and the displaced person's place of employment.

(j) "Displacing agency" means any public entity or person carrying out a program or project which causes a person to be a displaced person for a public project.

(k) "Appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

(l) "Small business" means a business as defined in Part 24 of Title 49 of the Code of Federal Regulations.

(m) "Lead agency" means the Department of Housing and Community Development.

7260.5. (a) The Legislature finds and declares the following:

(1) Displacement as a direct result of programs or projects undertaken by a public entity is caused by a number of activities, including rehabilitation, demolition, code enforcement, and acquisition.

(2) Relocation assistance policies must provide for fair, uniform, and equitable treatment of all affected persons.

(3) The displacement of businesses often results in their closure.

(4) Minimizing the adverse impact of displacement is essential to maintaining the economic and social well-being of communities.

(5) Implementation of this chapter has resulted in burdensome, inefficient, and inconsistent compliance requirements and procedures which may be improved by establishing a lead agency.

(b) This chapter establishes a uniform policy for the fair and equitable treatment of persons displaced as a direct result of programs or projects undertaken by a public entity. The primary purpose of this chapter is to ensure that these persons shall not suffer disproportionate injuries as a result of programs and projects designed for the benefit of the public as a whole and to minimize the hardship of displacement on these persons.

(c) The Legislature intends all of the following:

(1) Public entities shall carry out this chapter in a manner which minimizes waste, fraud, and mismanagement and reduces unnecessary administrative costs.

(2) Uniform procedures for the administration of relocation assistance shall, to the maximum extent feasible, assure that the unique circumstances of any displaced person are taken into account and that persons in essentially similar circumstances are accorded equal treatment under this chapter.

(3) The improvement of housing conditions of economically disadvantaged persons under this chapter shall be undertaken, to the maximum extent feasible, in coordination with existing federal, state, and local government programs for accomplishing these goals.

(4) The policies and procedures of this chapter shall be administered in a manner which is consistent with fair housing requirements and which assures all persons their rights under Title VIII of that act of April 11, 1968 (Public Law 90-284), commonly known as the Civil Rights Act of 1968 and Title VI of the Civil Rights Act of 1964.

7260.7. Notwithstanding any other provision of law, in furtherance of the goal set forth in paragraph (3) of subdivision (c) of Section 7260.5, nonprofit facilities subsidized pursuant to any federal or state program for the benefit of low-income tenants that restrict rent increases based on operating cost increases, and that also receive state funds for renovation and rehabilitation involving the temporary relocation of those tenants, shall be exempt from any restrictions on rents imposed pursuant to this chapter.

7261. (a) Programs or projects undertaken by a public entity shall be planned in a manner that (1) recognizes, at an early stage in the planning of the programs or projects and before the commencement of any actions which will cause displacements, the problems associated with the displacement of individuals, families, businesses, and farm operations, and (2) provides for the resolution of these problems in order to minimize adverse impacts on displaced persons and to expedite program or project advancement and completion. The head of the displacing agency shall ensure the relocation assistance advisory services described in subdivision (c) are made available to all persons displaced by the public entity. If the agency determines that any person occupying property immediately adjacent to the property where the displacing activity occurs is caused substantial economic injury as a result thereof, the agency may make the advisory services available to the person.

(b) In giving this assistance, the public entity may establish local relocation advisory assistance offices to assist in obtaining replacement facilities for persons, businesses, and farm operations which find that it is necessary to relocate because of the acquisition of real property by the public entity.

(c) This advisory assistance shall include those measures, facilities, or services which are necessary or appropriate to do all of the following:

(1) Determine and make timely recommendations on the needs and preferences, if any, of displaced persons for relocation assistance.

(2) Provide current and continuing information on the availability, sales prices, and rentals of comparable replacement dwellings for displaced homeowners and tenants, and suitable locations for businesses and farm operations.

(3) Assure that, within a reasonable time period prior to displacement, to the extent that it can be reasonably accomplished, there will be available in areas not generally less desirable in regard to public utilities and public and commercial facilities, and at rents or prices within the financial means of displaced families and individuals, decent, safe, and sanitary dwellings, sufficient in number to meet the needs of, and available to, those displaced persons requiring those dwellings and reasonably accessible to their places of employment, except that, in the case of a federally funded project, a waiver may be obtained from the federal government.

(4) Assure that a person shall not be required to move from a dwelling unless the person has had a reasonable opportunity to

relocate to a comparable replacement dwelling, except in the case of any of the following:

(A) A major disaster as defined in Section 102(2) of the federal Disaster Relief Act of 1974.

(B) A state of emergency declared by the President or Governor.

(C) Any other emergency which requires the person to move immediately from the dwelling because continued occupancy of the dwelling by the person constitutes a substantial danger to the health or safety of the person.

(5) Assist a person displaced from a business or farm operation in obtaining and becoming established in a suitable replacement location.

(6) Supply information concerning other federal and state programs which may be of assistance to those persons in applying for assistance under the program.

(7) Provide other advisory services to displaced persons in order to minimize hardships to those persons.

(d) The head of the displacing agency shall coordinate its relocation assistance program with the project work necessitating the displacement and with other planned or proposed activities of other public entities in the community or nearby areas which may affect the implementation of its relocation assistance program.

(e) Notwithstanding subdivision (c) of Section 7260, in any case in which a displacing agency acquires property for a program or project, any person who occupies the property on a rental basis for a short term or a period subject to termination when the property is needed for the program or project, shall be eligible for advisory services to the extent determined by the displacing agency.

7261.5. In order to prevent unnecessary expenses and duplications of functions, and to promote uniform and effective administration of relocation assistance programs for displaced persons under this chapter, a public entity may enter into a contract with any individual, firm, association, or corporation for services in connection with such program, or may carry out its functions under this chapter through any federal, state, or local governmental agency having an established organization for conducting relocation assistance programs. Any public entity may, in carrying out its relocation assistance activities, utilize the services of state or local housing agencies or other agencies having experience in the administration or conduct of similar housing assistance activities.

7262. (a) Whenever a program or project to be undertaken by a public entity will result in the displacement of any person, the displaced person is entitled to payment for actual moving and related expenses as the public entity determines to be reasonable and necessary, including expenses for all of the following:

(1) Actual and reasonable expenses in moving himself or herself, his or her family, business, or farm operation, or his or her, or his or her family's, personal property.

(2) Actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not to exceed an amount equal to the reasonable expenses that would have been required to relocate the property, as determined by the public entity.

(3) Actual and reasonable expenses in searching for a replacement business or farm, not to exceed one thousand dollars (\$1,000).

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(4) Actual and reasonable expenses necessary to reestablish a displaced farm, nonprofit organization, or small business at its new site, but not to exceed ten thousand dollars (\$10,000).

(b) Any displaced person eligible for payments under subdivision (a) who is displaced from a dwelling and who elects to accept the payments authorized by this subdivision in lieu of the payments authorized by subdivision (a) shall receive a moving expense and dislocation allowance which shall be determined according to a schedule established by the head of the lead agency. The schedule shall be consistent with the Residential Moving Expense and Dislocation Allowance Payment Schedule established by Part 24 of Title 49 of the Code of Federal Regulations.

(c) Any displaced person who moves or discontinues his or her business or farm operation and elects to accept the payment authorized by this subdivision in lieu of the payment authorized by subdivision (a), shall receive a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, except that the payment shall not be less than one thousand dollars (\$1,000) nor more than twenty thousand dollars (\$20,000). In the case of a business, no payment shall be made under this subdivision, unless the public entity is satisfied that the business cannot be relocated without substantial loss of patronage and is not part of a commercial enterprise having at least one other establishment not being acquired, engaged in the same or similar business. For purposes of this subdivision, the term "average annual net earnings" means one-half of any net earnings of the business or farm operation before federal, state, and local income taxes during the two taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property being acquired, or during any other period as the public entity determines to be more equitable for establishing earnings, and includes any compensation paid by the business or farm operation to the owner, his or her spouse, or his or her dependents during the two-year or other period. To be eligible for the payment authorized by this subdivision, the business or farm operation shall make available its state income tax records, financial statements, and accounting records, for confidential use pursuant to an audit to determine the payment pursuant to this subdivision. In regard to an outdoor advertising display, payment pursuant to this subdivision shall be limited to the amount necessary to physically move, or replace that display. Any displaced person eligible for payments under subdivision (a) who is displaced from the person's place of business or farm operation and who is eligible under criteria established by the public entity, may elect to accept a fixed payment in lieu of the payment authorized by subdivision (a). The fixed payment shall not be less than one thousand dollars (\$1,000) nor more than twenty thousand dollars (\$20,000). A person whose sole business at the displacement dwelling is the rental of the property to others shall not qualify for a payment under this subdivision.

(d) Whenever the acquisition of real property used for a business or farm operation causes the person conducting the business or farm operation to move from other real property, or to move his or her personal property from other real property, the person shall receive payments for moving and related expenses under subdivision (a) or (b) and relocation advisory assistance under Section 7261 for moving from the other property.

(e) Whenever a public entity must pay the cost of moving a

displaced person under paragraph (1) of subdivision (a), or subdivision (d):

(1) The costs of the move shall be exempt from regulation by the Public Utilities Commission.

(2) The public entity may solicit competitive bids from qualified bidders for performance of the work. Bids submitted in response to the solicitations shall be exempt from regulation by the Public Utilities Commission.

(f) No provision of this chapter shall be construed to require a public entity to provide any relocation assistance to a lessee if the property acquired for a program or project is subject to a lease for purposes of conducting farm operations and the public entity agrees to assume all of the terms of that lease.

7262.5. Notwithstanding Section 7265.3 or any other provision of law, tenants residing in any rental project who are displaced from the project for a period of one year or less as part of a rehabilitation of that project, that is funded in whole or in part by a public entity, shall not be eligible for permanent housing assistance benefits pursuant to Sections 7264 and 7264.5 if all of the following criteria are satisfied:

(a) The project is a "qualified affordable housing preservation project," which means any complex of two or more units whose owners enter into a recorded regulatory agreement, having a term for the useful life of the project, with any entity for the provision of project rehabilitation financing. For this purpose, the regulatory agreement shall require of the owner and all successors and assigns of the owner, as long as the regulatory agreement is in effect, that at least 49 percent of the tenants in the project have, at the time of the recordation of the regulatory agreement, incomes not in excess of 60 percent of the area median income, adjusted by household size, as determined by the appropriate agency of the state. In addition, a project is a qualified affordable housing preservation project only if the beneficiary of the regulatory agreement elects this designation by so indicating on the regulatory agreement.

(b) The resident is offered the right to return to his or her original unit, or a comparable unit in the same complex if his or her original unit is not otherwise available due to the rehabilitation, with rent for the first 12 months subsequent to that return being the lower of the following: up to 5 percent higher than the rent at the time of displacement; or up to 30 percent of household income.

(c) The estimated time of displacement is reasonable, and the temporary unit is not unreasonably impacted by the effects of the construction, taking into consideration the ages and physical conditions of the members of the displaced household.

(d) All other financial benefits and services otherwise required under this chapter are provided to the residents temporarily displaced from their units, including relocation to a comparable replacement unit. Residents shall be temporarily relocated to a unit within the same complex, or to a unit located reasonably near the complex if that unit is in a location generally not less desirable than the location of the displaced person's dwelling with respect to public utilities, services, and the displaced person's place of employment.

7263. (a) In addition to the payments required by Section 7262, the public entity, as a part of the cost of acquisition, shall make a

payment to the owner of real property acquired for public use which is improved with a dwelling actually owned and occupied by the owner as a permanent or customary and usual place of abode for not less than 180 days prior to the initiation of negotiation for the acquisition of that property.

(b) The payment, not to exceed twenty-two thousand five hundred dollars (\$22,500), shall be based on the following factors:

(1) The amount, if any, which, when added to the acquisition cost of the dwelling acquired by the public entity equals the reasonable cost of a comparable replacement dwelling.

(2) The amount, if any, which will compensate the displaced owner for any increased interest costs which the owner is required to pay for financing the acquisition of a comparable replacement dwelling. The amount shall be paid only if the dwelling acquired by the displacing agency was encumbered by a bona fide mortgage which was a valid lien on the dwelling for not less than 180 days immediately prior to the initiation of negotiations for the acquisition of the dwelling. All of the mortgages on the acquired dwelling shall be used to compute the payment. The amount shall be computed using the lesser of the principal balance of the mortgage on the replacement dwelling or the outstanding principal balance of the mortgage on the acquired dwelling and the lesser of the remaining term on the acquired dwelling or the actual term of the new mortgage. The present value of the increased interest costs shall be computed based on the lesser of the prevailing interest rate or the actual interest rate on the replacement property. The amount shall also include other reasonable debt service costs incurred by the displaced owner.

For the purposes of this subdivision, if the replacement dwelling is a mobilehome, the term "mortgage," as defined in subdivision (h) of Section 7260, shall include those liens as are commonly given to secure advances on, or the unpaid purchase price of, mobilehomes, together with the credit instruments, if any, secured thereby.

(3) Reasonable expenses incurred by the displaced owner for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(c) The additional payment authorized by this section shall be made only to a displaced owner who purchases and occupies a decent, safe, and sanitary replacement dwelling within one year from the later of the following:

(1) The date the displaced person receives final payment for the displacement dwelling, or in the case of condemnation, the date the full amount of estimated just compensation is deposited in court.

(2) The date the displacing agency fulfills its obligation to make available at least one comparable replacement dwelling to the displaced person.

However, the displacing agency may extend the period for good cause. Also, the displaced owner and the public entity may agree in writing that the displaced owner may remain in occupancy of the acquired dwelling as a tenant of the public entity on the conditions that the displaced owner shall only be entitled to the payment authorized by this section on the date on which the owner moves from the acquired dwelling and that the payment shall be in an amount equal to that to which the owner would have been entitled if the owner had purchased and occupied a replacement dwelling one year subsequent to the date on which final payment was received for the

acquired dwelling from the public entity.

(d) In implementing this chapter, it is the intent of the Legislature that special consideration be given to the financing and location of a comparable replacement dwelling for displaced persons 62 years of age or older.

7263.5. For purposes of Section 7263, the leasing of a condominium for a 99-year period, or for a term which exceeds the life expectancy of the displaced person as determined from the most recent life tables in Vital Statistics of the United States, as published by the Public Health Service of the Department of Health, Education, and Welfare, shall be deemed a purchase of the condominium.

7264. (a) In addition to the payments required by Section 7262, as a part of the cost of acquisition, the public entity shall make a payment to any displaced person displaced from any dwelling not eligible to receive a payment under Section 7263 which was actually and lawfully occupied by the person as a permanent or customary and usual place of abode for not less than 90 days prior to the initiation of negotiation by the public entity for the acquisition of the dwelling, or in any case in which displacement is not a direct result of acquisition, or any other event which the public entity shall prescribe.

(b) The payment, not to exceed five thousand two hundred fifty dollars (\$5,250), shall be the additional amount which is necessary to enable the person to lease or rent a comparable replacement dwelling for a period not to exceed 42 months, unless the displaced person meets one or more of the conditions set forth in paragraph (3) of subdivision (i) of Section 7260, in which case the payment, which shall not exceed five thousand two hundred fifty dollars (\$5,250), shall be the additional amount which is necessary to enable the person to lease or rent a comparable replacement dwelling for a period not to exceed 48 months. However, publicly funded transportation projects shall make payments enabling the person to lease or rent a comparable replacement dwelling for a period not to exceed 42 months, including compensation for utilities, as provided in subdivision (b) of Section 24.402 of Part 24 of Title 49 of the Code of Federal Regulations. Payments up to the maximum of five thousand two hundred fifty dollars (\$5,250) shall be made in a lump sum. Should an agency pay pursuant to Section 7264.5 an amount exceeding the maximum amount, payment may be made periodically. Computation of a payment under this subdivision to a low-income displaced person for a comparable replacement dwelling shall take into account the person's income.

(c) Any person eligible for a payment under subdivision (a) may elect to apply the payment to a downpayment on, and other incidental expenses pursuant to, the purchase of a decent, safe, and sanitary replacement dwelling. The person may, at the discretion of the public entity, be eligible under this subdivision for the maximum payment allowed under subdivision (b), except that, in the case of a displaced homeowner who has owned and occupied the displacement dwelling for at least 90 days but not more than 180 days immediately prior to the initiation of negotiations for the acquisition of the dwelling, the payment shall not exceed the payment which the person would otherwise have received under subdivision (b) of Section 7263 had the person owned and occupied the displacement dwelling 180 days immediately prior to the initiation of the negotiations.

(d) In implementing this chapter, it is the intent of the Legislature that special consideration shall be given to assisting any displaced person 62 years of age or older to locate or lease or rent a comparable replacement dwelling.

7264.5. (a) If a program or project undertaken by the public entity cannot proceed on a timely basis because comparable replacement housing is not available and the public entity determines that comparable replacement housing cannot otherwise be made available, the public entity shall take any action necessary or appropriate to provide the dwellings by use of funds authorized for the project. This section shall be construed to authorize the public entity to exceed the maximum amounts which may be paid under Sections 7263 and 7264 on a case-by-case basis for good cause as determined in accordance with rules and regulations adopted by the public entity. Where a displacing agency is undertaking a project with funds administered by a state agency or board, and where the displacing agency has adopted rules and regulations in accordance with Section 7267.8 for the implementation of this chapter, the determination of payments to be made pursuant to this subdivision shall be pursuant to those rules and regulations.

(b) No person shall be required to move from his or her dwelling because of its acquisition by a public entity, unless comparable replacement housing is available to the person.

(c) For purposes of determining the applicability of subdivision (a), the public entity is hereby designated as a duly authorized administrative body of the state for the purposes of subdivision (c) of Section 408 of the Revenue and Taxation Code.

(d) Subdivision (b) shall not apply to a displaced owner who agrees in writing with the public entity to remain in occupancy of the acquired dwelling as provided in subdivision (c) of Section 7263.

7265. (a) In addition to the payments required by Section 7262, as a cost of acquisition, the public entity shall make a payment to any affected property owner meeting the requirements of this section.

(b) The affected property shall be immediately contiguous to property acquired for airport purposes and the owner shall have owned the property affected by acquisition by the public entity not less than 180 days prior to the initiation of negotiation for acquisition of the acquired property.

(c) The payment, not to exceed twenty-two thousand five hundred dollars (\$22,500), shall be the amount, if any, which equals the actual decline in the fair market value of the property of the affected property owner caused by the acquisition by the public entity for airport purposes of other real property and a change in the use of the property.

(d) The amount, if any, of actual decline in fair market value of affected property shall be determined according to rules and regulations adopted by the public entity pursuant to this chapter. The rules and regulations shall limit payment under this section only to those circumstances in which the decline in fair market value of affected property is reasonably related to objective physical change in the use of acquired property.

7265.3. (a) A public entity may make payments in the amounts it deems appropriate, and may provide advisory assistance under this chapter, to a person who moves from a dwelling, or who moves or

discontinues his business, as a result of impending rehabilitation or demolition of a residential or commercial structure, or enforcement of building, housing, or health codes by a public entity, or because of systematic enforcement pursuant to Section 37924.5 of the Health and Safety Code, or who moves from a dwelling or who moves or discontinues a business as a result of a rehabilitation or demolition program or enforcement of building codes by the public entity, or because of increased rents to result from such rehabilitation or code enforcement. Payments prescribed by subdivision (b) of Section 7264 may also be made to persons who remain in a dwelling during rehabilitation. Payments authorized by this section and made pursuant to subdivision (b) of Section 7264 may, at the option of the public entity, be computed and reviewed annually based on actual rental increases, and may be paid monthly or annually. A public entity may also give priority to a person who moves from a dwelling, or who remains in a dwelling during rehabilitation, in utilization of local, state, or federal rental assistance programs, either to enable the person to pay increased rents or to move to other suitable housing.

A public entity assisting in the financing of rehabilitation may provide some or all of the payments authorized by this section as part of the loan for rehabilitation costs, provided that the public entity makes payments directly to the person who moves or who remains in the dwelling during rehabilitation.

(b) A public entity shall make payments in the amounts prescribed by this chapter, and shall provide advisory assistance under this chapter, to persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, whose rent, within one year after the rehabilitation of their dwelling is completed, is increased to an amount exceeding 25 percent of their gross income, or who move from their dwelling, as the result of a rehabilitation program in which the rehabilitation work is wholly or partially financed or assisted with public funds provided by or through the public entity.

(c) A public entity shall provide temporary housing for up to 90 days to persons displaced by rehabilitation work which is wholly or partially financed or assisted with public funds provided by or through the public entity.

(d) A person displaced by rehabilitation work which is wholly or partially financed or assisted with public funds provided by or through the public entity shall, as a condition of the financing or assistance, be given the option of relocating, after rehabilitation, in the dwelling from which the person was displaced.

(e) A public entity may limit the amounts of payments made pursuant to subdivision (b), otherwise calculated pursuant to subdivision (b) of Section 7264, to the lesser of: (i) the difference between the increased rent and 25 percent of gross income; or (ii) the difference between the increased rent and the rent immediately before the rehabilitation which was greater than 25 percent of gross income.

(f) The payments and advisory assistance as required in this section shall be mandatory only if federal or state funds are available. However, nothing shall preclude the public entity from using local funds.

7265.4. In addition to the payments required by Section 7262, as a cost of acquisition, the public entity, as soon as practicable after

the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is the earlier, shall reimburse the owner, to the extent the public entity deems fair and reasonable, for expenses the owner necessarily incurred for recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the public entity.

7266. (a) If a relocation appeals board has been established pursuant to Section 33417.5 of the Health and Safety Code, a city by ordinance may designate the board to hear appeals from all public entities, except those state agencies which have an appeal process, on the eligibility for, or the amount of, a payment authorized by this chapter.

(b) Any person aggrieved by a determination as to eligibility for, or the amount of, a payment authorized by this chapter may have the application reviewed by the public entity or by the relocation appeals board if authorized under subdivision (a). The review of a determination by a community redevelopment agency may only be made by a relocation appeals board established pursuant to Section 33417.5 of the Health and Safety Code.

7267. In order to encourage and expedite the acquisition of real property by agreements with owners, to avoid litigation and relieve congestion in the courts, to assure consistent treatment for owners in the public programs, and to promote public confidence in public land acquisition practices, public entities shall, to the greatest extent practicable, be guided by the provisions of Sections 7267.1 to 7267.7, inclusive, except that the provisions of subdivision (b) of Section 7267.1 and Section 7267.2 shall not apply to the acquisition of any easement, right-of-way, covenant, or other nonpossessory interest in real property to be acquired for the construction, reconstruction, alteration, enlargement, maintenance, renewal, repair, or replacement of subsurface sewers, waterlines or appurtenances, drains, septic tanks, or storm water drains.

7267.1. (a) The public entity shall make every reasonable effort to acquire expeditiously real property by negotiation.

(b) Real property shall be appraised before the initiation of negotiations, and the owner, or the owner's designated representative, shall be given an opportunity to accompany the appraiser during his or her inspection of the property. However, the public entity may prescribe a procedure to waive the appraisal in cases involving the acquisition by sale or donation of property with a low fair market value.

7267.2. (a) (1) Prior to adopting a resolution of necessity pursuant to Section 1245.230 of the Code of Civil Procedure and initiating negotiations for the acquisition of real property, the public entity shall establish an amount that it believes to be just compensation therefor, and shall make an offer to the owner or owners of record to acquire the property for the full amount so established, unless the owner cannot be located with reasonable diligence. The offer may be conditioned upon the legislative body's ratification of the offer by execution of a contract of acquisition

or adoption of a resolution of necessity or both. The amount shall not be less than the public entity's approved appraisal of the fair market value of the property. A decrease or increase in the fair market value of real property to be acquired prior to the date of valuation caused by the public improvement for which the property is acquired, or by the likelihood that the property would be acquired for the improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant, shall be disregarded in determining the compensation for the property.

(2) At the time of making the offer described in paragraph (1), the public entity shall provide the property owner with an informational pamphlet detailing the process of eminent domain and the property owner's rights under the Eminent Domain Law.

(b) The public entity shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount it established as just compensation. The written statement and summary shall contain detail sufficient to indicate clearly the basis for the offer, including, but not limited to, all of the following information:

(1) The date of valuation, highest and best use, and applicable zoning of property.

(2) The principal transactions, reproduction or replacement cost analysis, or capitalization analysis, supporting the determination of value.

(3) If appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated and shall include the calculations and narrative explanation supporting the compensation, including any offsetting benefits.

(c) Where the property involved is owner-occupied residential property and contains no more than four residential units, the homeowner shall, upon request, be allowed to review a copy of the appraisal upon which the offer is based. The public entity may, but is not required to, satisfy the written statement, summary, and review requirements of this section by providing the owner a copy of the appraisal on which the offer is based.

(d) Notwithstanding subdivision (a), a public entity may make an offer to the owner or owners of record to acquire real property for less than an amount that it believes to be just compensation therefor if (1) the real property is offered for sale by the owner at a specified price less than the amount the public entity believes to be just compensation therefor, (2) the public entity offers a price that is equal to the specified price for which the property is being offered by the landowner, and (3) no federal funds are involved in the acquisition, construction, or project development.

(e) As used in subdivision (d), "offered for sale" means any of the following:

(1) Directly offered by the landowner to the public entity for a specified price in advance of negotiations by the public entity.

(2) Offered for sale to the general public at an advertised or published specified price, set no more than six months prior to, and still available at, the time the public entity initiates contact with the landowner regarding the public entity's possible acquisition of the property.

7267.3. The construction or development of a public improvement shall be so scheduled that, to the greatest extent practicable, no

person lawfully occupying real property shall be required to move from a dwelling, assuming a replacement dwelling will be available, or to move his business or farm operation, without at least 90 days' written notice from the public entity of the date by which such move is required.

7267.4. If the public entity permits an owner or tenant to occupy the real property acquired on a rental basis for a short term, or for a period subject to termination by the public entity on short notice, the amount of rent required shall not exceed the fair rental value of the property to a short-term occupier.

7267.5. In no event shall the public entity either advance the time of condemnation, or defer negotiations or condemnation and the deposit of funds in court for the use of the owner, or take any other action coercive in nature, in order to compel an agreement on the price to be paid for the property.

7267.6. If any interest in real property is to be acquired by exercise of the power of eminent domain, the public entity shall institute formal condemnation proceedings. No public entity shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

7267.7. (a) If the acquisition of only a portion of a property would leave the remaining portion in such a shape or condition as to constitute an uneconomic remnant, the public entity shall offer to acquire the entire property if the owner so desires.

(b) A person whose real property is being acquired in accordance with this chapter may, after the person has been fully informed of his or her right to receive just compensation for the property, donate the property, any part thereof, any interest therein, or any compensation paid therefor to a public entity determined by the person.

7267.8. (a) All public entities shall adopt rules and regulations to implement payments and to administer relocation assistance under this chapter. These rules and regulations shall be in accordance with the rules and regulations adopted by the Department of Housing and Community Development.

(b) Notwithstanding subdivision (a), with respect to a federally funded project, a public entity shall make relocation assistance payments and provide relocation advisory assistance as required under federal law.

7267.9. (a) Prior to the initiation of negotiations for acquisition by a public entity or public utility of nonprofit, special use property, as defined by Section 1235.155 of the Code of Civil Procedure, the acquiring public entity or public utility shall make every reasonable effort to seek alternative property which is other than nonprofit, special use property. However, this requirement shall not apply to properties acquired by public entities for transportation purposes, including, but not limited to, the construction, expansion, or improvement of streets, highways, or railways.

(b) This section does not apply to actions or proceedings commenced by a public entity or public utility to acquire real

property or any interest in real property for the use of water, sewer, electricity, telephone, natural gas, or flood control facilities or rights-of-way where those acquisitions neither require removal or destruction of existing improvements, nor render the property unfit for the owner's present or proposed use.

7269. (a) No payment received by any person under this chapter or as tenant relocation assistance required by any state statute or local ordinance shall be considered as income for the purposes of the Personal Income Tax Law, Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, or the Bank and Corporation Tax Law, Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

(b) No payment received by any person under this chapter shall be considered as income or resources to any recipient of public assistance and such payments shall not be deducted from the amount of aid to which the recipient would otherwise be entitled under any other provisions of law.

7269.1. Where a recipient of relocation benefits payments under federal or state law is also a general assistance recipient under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code and two or more rent schedules apply to the recipient, the highest shall prevail and any excess amount over lower rent schedule shall not be counted as income or resources for general assistance purposes under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code.

7270. Nothing contained in this chapter shall be construed as creating in any condemnation proceedings brought under the power of eminent domain any element of damages not in existence on the date of enactment of this chapter.

7271. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

7272. If under any other provision of law of this state the owner or occupant of real property acquired by a public entity for public use is given greater protection than is provided by Sections 7265.3 to 7267.8, inclusive, the public entity shall also comply with such other provision of law.

7272.3. It is the intent of the Legislature, by this chapter, to establish minimum requirements for relocation assistance payments by public entities. This chapter shall not be construed to limit any other authority which a public entity may have to make other relocation assistance payments, or to make any relocation assistance payment in an amount which exceeds the maximum amount for such payment authorized by this chapter.

Any public entity may, also, make any other relocation assistance payment, or may make any relocation assistance payment in an amount which exceeds the maximum amount for such payment authorized by this chapter, if the making of such payment, or the payment in such amount, is required under federal law to secure federal funds.

7272.5. Nothing contained in this article shall be construed as creating in any condemnation proceeding brought under the power of eminent domain, any element of damages not in existence on the date the public entity commences to make payments under the provisions of this article as amended by the act which enacted this section at the 1971 Regular Session of the Legislature.

7273. Funds received pursuant to Sections 2106 and 2107 of the Streets and Highways Code may be expended by any city to provide relocation advisory assistance, and to make relocation assistance payments, to displaced persons displaced because of the construction of city highways or streets.

7274. Sections 7267 to 7267.7, inclusive, create no rights or liabilities and shall not affect the validity of any property acquisitions by purchase or condemnation.

7275. Whenever any public entity acquires real property by eminent domain, purchase, or exchange, the purchase price and other consideration paid by such entity is public information and shall be made available upon request from the entity concerned.

7276. (a) If a resolution is adopted under Section 1245.330 of the Code of Civil Procedure consenting to the acquisition of property by eminent domain and the person authorized by the resolution to acquire the property by eminent domain acquires the property by purchase, eminent domain, or otherwise, that person shall provide relocation advisory assistance and shall make any of the payments required to be made by public entities pursuant to the provisions of this chapter in conformity with this chapter and the guidelines adopted by the Commission of Housing and Community Development pursuant to Section 7268.

(b) This section does not apply to public utilities which are subject to the provisions of Article 6 (commencing with Section 600) of Chapter 3 of Part 1 of Division 1 of the Public Utilities Code or to public entities which are subject to this chapter.

7277. (a) The requirement to provide relocation assistance and benefits imposed by this chapter shall not apply to a purchase of property which is offered for sale by the owner, property being sold at execution or foreclosure sale, or property being sold pursuant to court order or under court supervision if the property in any of the foregoing situations is either occupied by the owner or is unoccupied, and if the offer for sale is not induced by public entity disposition, planned condemnation, or redevelopment of surrounding lands, and if the sales price is fair market value or less, as determined by a qualified appraiser, and if no federal funds are involved in the acquisition, construction, or project development. "Offered for sale" means either advertised for sale in a publication of general circulation published at least once a week or listed with a licensed real estate broker and published in a multiple listing, pursuant to Section 1087 of the Civil Code.

(b) At the time of making an offer to acquire property under subdivision (a), public entities shall notify the property owner in

writing, of the following:

(1) The public entity's plans for developing the property to be acquired or the surrounding property.

(2) Any relocation assistance and benefits provided pursuant to state law which the property owner may be forgoing.

**CALIFORNIA RELOCATION ASSISTANCE AND REAL
PROPERTY ACQUISITION GUIDELINES [25 CCR 6000 – 6198]
("STATE GUIDELINES")**

**CALIFORNIA RELOCATION ASSISTANCE AND
REAL PROPERTY ACQUISITION GUIDELINES**

CALIFORNIA CODE OF REGULATIONS, TITLE 25, CHAPTER 6

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ARTICLE 1. GENERAL

6000. Order of Adoption. This subchapter (hereinafter referred to as the “Guidelines”) is adopted pursuant to the provisions of Section 41135, Health and Safety Code, in order to implement, interpret and to make specific provisions of Division 7, commencing with Section 7260 of the Government Code (hereinafter referred to as the “Act”), relating to relocation assistance, last resort housing and real property acquisition.

6002. Statement of Purpose and Policy.

- (a) The purpose of the Guidelines is to assist public entities in the development of regulations and procedures implementing the Act.
- (b) The Guidelines are designed to carry out the following policies of the Act:
 - (1) To ensure that uniform, fair and equitable treatment is afforded persons displaced from their homes, businesses or farms as a result of the actions of a public entity in order that such persons shall not suffer disproportionate injury as a result of action taken for the benefit of the public as a whole; and
 - (2) In the acquisition of real property by a public entity, to ensure consistent and fair treatment for owners of real property to be acquired, to encourage and expedite acquisition by agreement with owners of such property in order to avoid litigation and relieve congestion in courts, and to promote confidence in public land acquisition.
- (c) A public entity shall not participate in or undertake a project that will displace individuals from their homes unless comparable replacement dwellings (see subsection 6008(c)) will be available within a reasonable period of time prior to displacement.
- (d) The Guidelines are intended to establish only minimum requirements for relocation assistance and payments. They shall not be construed to limit any other authority or obligation which a public entity may have to provide additional assistance and payments.
- (e) The Act and the Guidelines are intended for the benefit of displaced persons, to ensure that such persons receive fair and equitable treatment and do not suffer disproportionate injuries as the result of programs designed for the benefit of the public as a whole. The Act, Guidelines and all applicable regulations on which determinations are based shall be construed to effect this intent.

6004. Applicability and Supersedure.

- (a) Except as otherwise noted in this section, the Guidelines are applicable to all displacement and acquisition occurring on or after their effective date, January 1, 1977.
- (b) These Guidelines supersede those adopted by the Commission of Housing and Community Development on October 17, 1973. The guidelines so superseded shall not apply to any displacement or acquisition occurring on or after the effective date of these Guidelines. Any such displacement or acquisition shall be governed solely by these Guidelines and the California Relocation Act, found at Government Code Section 7260 et seq. The provisions of these Guidelines, however, shall not be construed retroactively to apply to action(s) undertaken by a public entity prior to their effective date where the purpose of the action was to fulfill obligations imposed by the Act and action is in compliance with the requirements of the Act and the existing Guidelines. For the purpose of this section the term “action” shall include but is not limited to: the provision of information, notice, other assistance, comparable replacement housing, payment and other benefits; the preparation of relocation and last resort housing plans, including the survey and analysis of needs and resources; the

processing of grievances; and the various steps taken in connection with the acquisition of property for public use.

These guidelines shall apply to relocation plans and notices to displacees subsequent to the effective date of any regulatory provision. The right of displacees shall not be reduced in reliance on any amendment to these guidelines where it may be demonstrated that the displacee has acted in reliance on a notice given to that household prior to the effective date of any guideline.

(c) To the extent that these Guidelines are from time to time amended, the amendments shall be effective prospectively from the date that they become effective.

6006. Regulations.

(a) Each public entity before undertaking or participating in activity which will result in the displacement of persons shall adopt rules and regulations that implement the requirements of the Act, are in accordance with the provisions of the Guidelines, and prescribe additional procedures and requirements that are appropriate to the particular activities of the public entity and not inconsistent with the Act or Guidelines.

(b) Rules and regulations issued under this section shall be promptly revised as necessary, to conform to any amendment of the Act or Guidelines.

6008. Definitions. The following terms shall mean:

(a) Acquisition. Obtaining ownership or possession of property by lawful means.

(b) Business. Any lawful activity, except a farm operation provided such lawful activity is not in an unlawful occupancy as defined in subsection (v), conducted primarily:

(1) For the purchase, sale, lease, or rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property;

(2) For the sale of services to the public;

(3) By a nonprofit organization; or

(4) Solely for the purpose of a moving expense payment (see section 6090), for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display, whether or not such display is located on the premises on which any of the above activities are conducted.

(c) Comparable Replacement Dwelling. A dwelling which satisfies each of the following standards:

(1) Decent, safe and sanitary (as defined in subsection 6008(d)), and comparable to the acquired dwelling with respect to number of rooms, habitable living space and type and quality of construction, but not lesser in rooms or living space that is necessary to accommodate the displaced person.

(2) In an area not subjected to unreasonable adverse environmental conditions from either natural or manmade sources, and not generally less desirable than the acquired dwelling with respect to public utilities, public and commercial facilities and neighborhood conditions, including schools and municipal services, and reasonable accessible to the displaced person's present or potential place of employment; provided that a potential place of employment may not be used to satisfy the accessibility requirement if the displaced person objects.

The Act and Guidelines do not require that the replacement dwelling be generally as desirable as the acquired dwelling with respect to environmental characteristics. Though a displaced person does not have to accept a dwelling subject to unreasonable

adverse environmental conditions, neither is a public entity required to duplicate environmental characteristics, such as scenic vistas or proximity to the ocean, lakes, rivers, forests or other natural phenomena.

If the displaced person so wishes, every reasonable effort shall be made to relocate such person within or near to his existing neighborhood. Whenever practicable the replacement dwelling shall be reasonably close to relatives, friends, services or organizations with whom there is an existing dependency relationship.

(3) Available on the private market to the displaced person and available to all persons regardless of race, color, sex, marital status, religion, or national origin in a manner consistent with Title VIII of the Civil Rights Act of 1968 or any other applicable state or federal anti-discrimination law.

(4) To the extent practicable and where consistent with paragraph (c)(1) of this section, functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing.

(5)(A) *Within the Financial Means of the Displaced Person.* A replacement dwelling is within the financial means of a displaced person if the monthly rental cost (including utilities and other reasonable recurring expenses) minus any replacement housing payment available to the person (as provided in sections 6104) does not exceed thirty percent (30%) of the person's average monthly income (as defined in subsection 6008 (1)).

(B) For homeowners; a replacement dwelling is within the financial means of a displaced person if the purchase price of the dwelling including related increased interest costs and other reasonable expenses including closing costs (as described in section 6102) does not exceed the total of the amount of just compensation provided for the dwelling acquired and the replacement housing payment available to the person (as provided in section 6102).

If a dwelling which satisfies these standards is not available the public entity may consider a dwelling which exceeds them.

(d) Decent, Safe and Sanitary.

(1) Housing in sound, clean and weather tight condition, in good repair and adequately maintained, in conformance with the applicable state and local building, plumbing, electrical, housing and occupancy codes or similar ordinances or regulations and which meets the following minimum standards:

(A) Each housekeeping unit shall include a kitchen with a fully usable sink, a stove or connection for a stove, a separate and complete bathroom, hot and cold running water in both bathroom and kitchen, and adequate and safe wiring system for lighting and other electrical services and heating as required by climatic conditions and local codes.

(B) Each nonhousekeeping unit shall be in conformance with state and local code standards for boarding houses, hotels and other dwellings for congregate living.

(2) When the term decent, safe and sanitary is interpreted, under local, state or federal law, as establishing a higher standard, the elements of that higher standard, which exceed the provision of paragraph (1) of this subsection, are incorporated herein. A unit which is occupied by no more than the maximum number of people allowed under the *State Building Code* shall be considered to be in compliance with the occupancy provisions of this subsection.

(e) Department. Department of Housing and Community Development.

(f) Displaced Person. Any person who moves from real property, or who moves his personal property from real property, either:

(1) As a result of a written notice of intent to acquire by a public entity or as a result of the acquisition of such real property, in whole or in part, by a public entity or by any person having an agreement with or acting on behalf of a public entity, or as the result of written order from a public entity to vacate the real property, for public use; or

(2) As a result of the rehabilitation, demolition or other displacing activity undertaken by a public entity or by any person having an agreement with or acting on behalf of a public entity of real property on which the person is in lawful occupancy or conducts a business, and the displacement, except as provided in Government Code Sections 7262.5, lasts longer than 90 days.

This definition shall be construed so that persons displaced as a result of public action receive relocation benefits in cases where they are displaced as a result of an owner participation agreement or an acquisition carried out by a private person for or in connection with a public use where the public entity is otherwise empowered to acquire the property to carry out the public use.

(3) Except persons or families of low and moderate income, as defined in Section 50093 of the Health and Safety Code, who are occupants of housing which was made available to them on a permanent basis by a public agency and who are required to move from that housing, a displaced person shall not include any of the following:

(A) Any person who has been determined to be in unlawful occupancy of the displacement property as defined in subsection 6008 (v).

(B) Any person who is a post-acquisition occupant of the displacement dwelling, as provided in section 6034 (b);

(C) Any person who occupied the property for the purpose of obtaining relocation benefits and assistance;

(D) Any person who is an occupant of a "Qualified affordable housing preservation project" and all requirements of Government Code Section 7262.5 are met; or

(E) Any person occupying private property (not otherwise entitled to relocation benefits as a result of an acquisition, rehabilitation or demolition program) who is required to move as a result of the displacing agency's routine enforcement of building, housing or health codes unless the code enforcement is undertaken for the purpose of causing displacement in coordination with an identified rehabilitation, construction, or demolition program or project.

(F) A person who is not required to move permanently or temporarily as a result of the project as long as they are notified they are not required to move and the project does not impose an unreasonable change in the character or use of the property.

(G) An owner-occupant who moves as a result of an acquisition meeting the requirements of Government Code section 7277.

(g) Dwelling. The place of permanent or customary and usual abode of a person, including a single-family dwelling, a single-family unit in a two-family dwelling, multi-family or multipurpose dwelling, a unit of a condominium or cooperative housing project, a nonhousekeeping unit, a mobilehome, a recreational vehicle as described in Health and Safety Code Section 18010, or any other residential unit which either is considered to be real property under State law or cannot be moved without substantial damage or unreasonable cost. A residence need not be decent, safe and sanitary to be a dwelling.

A second home shall be considered to be a dwelling only for the purpose of establishing eligibility for payment for moving and related expenses (as provided in section 6090).

(h) Economic Rent. The amount of rent a tenant or homeowner would have to pay for a dwelling similar to the acquired dwelling in a comparable area.

(i) Elderly Household. A household in which the head of household or spouse is 62 years or older.

(j) Family. Two or more individuals who by blood, marriage, adoption, or mutual consent live together as a family unit.

(k) Farm Operation. Any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(l) Gross Income. Gross income means the total annual income of an individual, or where a family is displaced total annual income of the parents or adult heads of household, less the following:

(1) A deduction of \$500 for each dependent in excess of three.

(2) A deduction of ten percent (10%) of total income for an elderly or handicapped household.

(3) A deduction for recurring, extraordinary medical expenses, defined for this purpose to mean medical expenses in excess of three percent of total income, where not compensated for or covered by insurance or other sources, such as public assistance or tort recovery.

(4) A deduction of reasonable amounts paid for the care of children or sick or incapacitated family members when determined to be necessary to employment of the head or spouse, except that the amount deducted shall not exceed the amount of income received by the person thus released.

Gross income is divided by twelve to ascertain the average monthly income. Relocation and property acquisition payments are not to be considered as income for the determination of financial means.

(m) Handicapped Household. A household in which any member is handicapped or disabled.

(n) Initiation of Negotiations. The initial written offer made by the acquiring entity to the owner of real property to be purchased, or the owner's representative.

(o) Manufactured Home or Mobilehome. A structure described in Health and Safety Code sections 18007 and 18008.

(p) Mortgage. Such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, together with the credit instruments, if any, secured thereby.

(q) Ownership. Holding any of the following interests in a dwelling, or a contract to purchase one of the first six interests:

(1) A fee title.

(2) A life estate.

(3) A 50-year lease.

(4) A lease with at least 20 years to run from the date of acquisition of the property.

(5) A proprietary interest in a cooperative housing project which includes the right to occupy a dwelling.

(6) A proprietary interest in a mobilehome.

(7) A leasehold interest with an option to purchase.

In the case of one who has succeeded to any of the foregoing interest by devise, bequest, inheritance or operation of law, the tenure of ownership, but not occupancy, of the succeeding owner shall include the tenure of the preceding owner.

(r) Person. Any individual, family, partnership, corporation, limited liability corporation, or association.

(s) Public Entity. Includes the state, the Regents of the University of California, a county, city, city and county, district, public authority, public agency, and any other political subdivision or public corporation in the state when acquiring real property, or any interest therein, or ordering that acquired property be vacated, in any city or county for public use.

(t) Public Use. A use for which property may be acquired by eminent domain.

(u) Tenant. A person who rents or is otherwise in lawful possession of a dwelling, including a sleeping room, which is owned by another.

(v) Unlawful Occupancy. A person is considered to be in unlawful occupancy if the person has been ordered to move by a court of competent jurisdiction or if the person's tenancy has been lawfully terminated by the owner for cause, the tenant has vacated the premises, and the termination was not undertaken for the purpose of evading relocation assistance obligations.

6010. Prior Determinations.

(a) Displacement. No public entity may proceed with any phase of a project or other activity which will result in the displacement of any person, business or farm until it makes the following determinations:

(1) Fair and reasonable relocation payments will be provided to eligible persons as required by Article 3 of the Guidelines.

(2) A relocation assistance program offering the services described in Article 2 of the Guidelines will be established.

(3) Eligible persons will be adequately informed of the assistance, benefits, policies, practices and procedures, including grievance procedures, provided for in these Guidelines.

(4) Based upon recent survey and analysis of both the housing needs of persons who will be displaced and available replacement housing and considering competing demands for that housing, comparable replacement dwellings will be available, or provided, if necessary, within a reasonable period of time prior to displacement sufficient in number, size and cost for the eligible persons who require them.

(5) Adequate provisions have been made to provide orderly, timely, and efficient relocation of eligible persons to comparable replacement housing available without regard to race, color, religion, sex, marital status, or national origin with minimum hardship to those affected.

(6) A relocation plan meeting the requirements of section 6038 has been prepared.

(b) Acquisition. No public entity may proceed with any phase of a project or any other activity which will result in the acquisition of real property until it determines that with respect to such acquisition and to the greatest extent practicable,

(1) Adequate provisions have been made to be guided by the provisions of Article 6 of the Guidelines, and

(2) Eligible persons will be informed of the pertinent benefits, policies and requirements of the Guidelines.

6012. Citizen Participation.

(a) All persons who will be displaced, neighborhood groups and any relocation committee shall be given the opportunity and should be encouraged fully and meaningfully to participate in reviewing the relocation plan and monitoring the relocation assistance program.

(b) When a substantial number of persons will be displaced from their dwellings the public entity shall encourage the residents and community organizations in the displacement area to form a relocation committee. The committee shall include, when applicable, residential owner occupants, residential tenants, business people, and members of existing organizations within the area. In lieu of initiating a new process of citizen participation, public entities which have conducted or are conducting a citizen participation process as part of an existing development program may substitute such process if it satisfies the requirements of this section.

If a substantial number of persons will not be displaced from their dwellings, the public entity shall at least consult with and obtain the advice of residents and community organizations and make the relocation plan available to such persons and organizations prior to submitting it to the legislative body for approval. (See section 6038.)

(c) At a minimum the displacing entity shall guarantee the following:

(1) Timely and full access to all documents relevant to the relocation program. A public entity may reasonably restrict access to material where its confidentiality is protected by law or its disclosure is prohibited by law.

The displacing entity shall ensure that the information in documents the provision of which would result in disclosure of the identity of eligible persons is provided in a manner designed to avoid such disclosure. This obligation to avoid improper disclosure shall not effect the right of the person to which the information relates (or any other person authorized in writing by such person) to inspect such documents.

(2) The provision of technical assistance necessary to interpret elements of the relocation plan and other pertinent materials.

(3) The right to submit written or oral comments and objections, including the right to submit written comments on the relocation plan and to have these comments attached to the plan when it is forwarded to the local legislative body or the head of the state agency for approval.

(4) Prompt, written response to any written objections or criticisms.

6014. Prerequisite to Displacement. No person shall be displaced until the public entity has fulfilled the obligations imposed by the Act and Guidelines.

6016. Remedies.

(a) If the public entity has not fulfilled or is not substantially fulfilling its relocation responsibilities, it shall cease displacement until such time as its responsibilities are fulfilled. When appropriate project implementation shall be suspended or terminated.

(b) Eligible persons who move without offers of assistance and benefits, after the public entity was required to offer assistance or benefits, shall be provided such assistance and payments and, when appropriate, compensation for additional costs incurred. The displacing entity shall make every effort to identify and locate such persons.

(c) A public entity may pay a complainant's attorney's fees and costs and is encouraged to consider doing so when a complainant institutes a successful administrative appeal or judicial action.

(d) The enumeration of remedies in this section is not intended to discourage or preclude the use of other remedies consistent with the intent of the Act and Guidelines. Rather a public entity is encouraged to consider and adopt other remedies.

- 6018. Priority of Federal Law.** If a public entity undertakes a project with federal financial assistance and consequently must provide relocation assistance and benefits as required by federal law, the provisions of the Act and Guidelines shall not apply; but if an obligation to provide relocation assistance and benefits is not imposed by federal law the provisions of the Act and Guidelines shall apply.
- 6020. Severability.** If any provision of the Guidelines or the application thereof is held invalid, such invalidity shall not affect other provisions or applications of the Guidelines which can be given effect without invalid provision or application, and to this end the provisions of the Guidelines are severable.

ARTICLE 2. RELOCATION ASSISTANCE ADVISORY PROGRAM AND ASSURANCE OF COMPARABLE REPLACEMENT HOUSING

- 6030. Purpose.** The purpose of this part is to set forth requirements with respect to the development and implementation of a relocation assistance advisory program for the provision of specified services and to prescribe the obligation of a public entity not to displace or cause the displacement of any person from his dwelling without adequate notice and unless comparable replacement housing is available.
- 6032. Relocation Assistance Advisory Program.** Public entities shall develop and implement a relocation assistance advisory program which satisfies the requirements of this article and of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, the Unruh Civil Rights Act, Rumford Act and applicable state and federal anti-discrimination laws. Such program shall be administered so as to provide advisory services which offer maximum assistance to minimize the hardship of displacement and to ensure that (a) all persons displaced from their dwellings are relocated into housing meeting the criteria for comparable replacement housing, and (b) all persons displaced from their places of business or farm operations are assisted in reestablishing with a minimum of delay and loss of earnings.
- 6034. Eligibility.**
- (a) Relocation assistance and benefits shall be available to:
 - (1) Any person who occupies property from which he will be displaced.
 - (2) Any person who will move from real property or will move his personal property from real property, because he will be displaced from other real property on which he conducts a business or farm operation.
 - (3) Any person who moves from real property as a result of its acquisition by a public entity whether the move is voluntary or involuntary.
 - (4) Any person who, following the initiation of negotiations by a public entity, moves as the result of the pending acquisition.
 - (5) Any person who moves as the result of pending acquisition, rehabilitation or demolition by a public entity either following receipt of a Notice of Intent to Displace (see section 6086) or as a result of inducement or encouragement by the public entity.
 - (b)
 - (1) Post-acquisition tenants, those who lawfully occupy property only after a public entity acquires it, or who lawfully occupy property after the private acquisition of property by a person with a written agreement with a public entity for the purpose of financing the purchase or development of the property, are not eligible for assistance and benefits other than advisory assistance to the extent determined by the displacing agency. A public entity shall inform post-acquisition tenants regarding the projected date of displacement and, periodically, should inform post-acquisition tenants of any changes in this projection.
 - (2) When the displacement of a post-acquisition tenant causes a hardship for the person because of a critical housing shortage, age, handicap, infirmity, lack of financial means or other circumstance, the displacing entity shall provide relocation advisory assistance and, may in its discretion, provide other financial relocation benefits. In such hardship situations a public entity is encouraged to provide advisory assistance and payment for moving expenses.
 - (3) Where a public entity, or property it owns, is making housing available on a permanent basis, a post-acquisition tenant who moves as the result of a written order

from the public entity to vacate is eligible for relocation assistance and benefits if the order to vacate is related to a plan to demolish, rehabilitate or change the use of such units.

6036. Rehabilitation and Demolition. If a public entity undertakes a rehabilitation or demolition program and as a result a person or business is displaced from privately owned property, the public entity shall provide assistance and benefits. If a person or business is displaced by such an undertaking from property acquired by a public entity, the public entity shall provide assistance and benefits.

6038. Relocation Plan.

(a) As soon as possible following the initiation of negotiations and prior to proceeding with any phase of a project or other activity that will result in displacement a public entity shall prepare a Relocation Plan and submit it for approval to the local legislative body, or in the case of a state agency, the head of the agency. When the public entity's action will only result in an insignificant amount of non-residential displacement a displacing entity shall provide benefits as required by these Guidelines and state Relocation Law without compliance with this section. For residential projects of 15 or less households, the full and accurate completion of the Model Relocation Plan HCD-832 (new), which is incorporated by reference as if set forth in full, shall be presumed to be in compliance with the planning requirements of this section. Copies of the Model Relocation Plan HCD-832 (6/8/99) as well as the Informational Notice HCD-833 (6/8/99), which is incorporated by reference as if set forth in full, maybe downloaded from the Departments Internet Website at <www.hcd.ca.gov>. This form can be obtained from The Department by telephoning 916-323-7288.

(b) A Relocation Plan shall include the following:

- (1) A diagrammatic sketch of the project area.
- (2) Projected dates of displacement.
- (3) A written analysis of the aggregate relocation needs of all persons to be displaced (as required by section 6048) and a detailed explanation as to how these needs are to be met.
- (4) A written analysis of relocation housing resources (as required by section 6052).
- (5) A detailed description of the relocation advisory services program, including specific procedures for locating and referring eligible persons to comparable replacement housing.
- (6) A description of the relocation payments to be made (pursuant to Article 3) and a plan for disbursement.
- (7) A cost estimate for carrying out the plan and identification of the source of the necessary funds.
- (8) A detailed plan by which any last resort housing (as described in section 6054 and Article 4) is to be built and financed.
- (9) A standard information statement to be sent to all renters who will be permanently displaced (as required by section 6046)
- (10) Temporary relocation plans, if any.
- (11) A description of relocation office operation procedures.
- (12) Plans for citizen participation.
- (13) An enumeration of the coordination activities undertaken (pursuant to section 6052).
- (14) The comments of the relocation committee, if any (pursuant to section 6012).

- (15) A written determination by the public entity that the necessary resources will be available as required.
- (c) A Plan prepared by a local public entity shall be consistent with the local housing element.
- (d) In the event of delay of more than one year in the implementation of the relocation program, the plan shall be updated prior to implementation of that program.
- (e) (1) Copies of the plan shall be submitted for review to the relocation committee 30 days prior to submission to the local legislative body or head of state agency for approval. Copies shall be available to the public upon request. A copy of the final relocation plan shall be forwarded to the department which shall act as a central repository.
(2) General notice of the plan shall be provided. Notice shall be designed to reach the occupants of the property; it shall be in accordance with the provisions of paragraph 6046(a)(3) and subsection 6046(b); and it shall be provided 30 days prior to submission to the local legislative body or head of state agency for approval.
- (f) Any displaced person or interested organization may petition the Department to review the relocation plan required to be submitted by the displacing agency. The Department shall review the plan in accordance with the time constraints and the procedures established in Article 5.

6040. Minimum Requirements of Relocation Assistance Advisory Program.

- (a) Each relocation assistance advisory program undertaken pursuant to this Article shall include, at a minimum, such measures, facilities or services as may be necessary or appropriate in order to:
 - (1) Fully inform eligible persons under this Article within 60 days following the initiation of negotiations but not later than the close of escrow on the property, for a parcel as to the availability of relocation benefits and assistance and the eligibility requirements therefor, as well as the procedures for obtaining such benefits and assistance, in accordance with the requirements of section 6046. For projects by private parties with an agreement with a public entity, the "initiation of negotiations" shall be the later of the date of acquisition or the date of the written agreement between the private entity and the public entity for purposes of acquiring or developing the property for the project.
 - (2) Determine the extent of the need of each such eligible person for relocation assistance in accordance with the requirements of section 6048.
 - (3) Assure eligible persons that within a reasonable period of time prior to displacement there will be available comparable replacement housing, meeting the criteria described in section 6008(c), sufficient in number and kind for and available to such eligible persons.
 - (4) Provide current and continuing information on the availability, prices, and rentals of comparable sales and rental housing, and of comparable commercial properties and locations, and as to security deposits, closing costs, typical down payments, interest rates, and terms for residential property in the area.
 - (5) Assist each eligible person to complete applications for payments and benefits.
 - (6) Assist each eligible, displaced person to obtain and move to a comparable replacement dwelling.

Only adequate inspection will insure that a particular unit meets this standard. If a displaced person occupies a unit to which he is referred by the public entity and the unit does not satisfy the comparable replacement dwelling standard, the public entity has not fulfilled its obligations to assist the displaced person to obtain such a dwelling. Whenever this occurs the public entity shall offer to locate such a dwelling for the displaced person and to pay again all moving and related expenses. If the displaced person chooses not to move from the unit that he occupied following referral, the public entity shall not assert that he is ineligible to receive relocation assistance and benefits on the basis of that unit's failure to satisfy the comparable replacement dwelling standard.

(7) Assist each eligible person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location.

(8) Provide any services required to insure that the relocation process does not result in different or separate treatment on account of race, color, religion, national origin, sex, marital status, familial status, or any basis protected by state or federal anti-discrimination laws, or any other arbitrary circumstances.

(9) Supply to such eligible persons information concerning federal and state housing programs, disaster loan and other programs administered by the Small Business Administration, and other federal or state programs, offering assistance to displaced persons.

(10) Provide other advisory assistance to eligible persons in order to minimize their hardships. It is recommended that, as needed, such assistance include counseling and referrals with regard to housing, financing, employment, training, health and welfare, as well as other assistance.

(11) Inform all persons who are expected to be displaced about the eviction policies to be pursued in carrying out the project, which policies shall be in accordance with the provisions of section 5058.

(b) Relocation Office. When a substantial number of persons will be displaced and the relocation staff's office is not easily accessible to those persons, a displacing entity is encouraged to establish at least one appropriately equipped site office which is accessible to all the area residents who may be displaced and is staffed with trained or experienced relocation personnel. Office hours should be scheduled to accommodate persons unable to visit the office during normal business hours.

(c) Each displacing entity shall establish and maintain a formal grievance procedure for use by displaced persons seeking administrative review of the entity's determinations. The procedure shall be in accordance with the requirements of Article 5.

6042. Replacement Housing Prior to Displacement; Notices To Displaced Persons.

(a) No eligible person shall be required to move from his dwelling unless within a reasonable period of time prior to displacement comparable replacement dwellings (as defined in subsection 6008) (c) or, in the case of a temporary move (as defined in section 6044), adequate replacement dwellings (as defined in subsection (b) below) are available to such person.

(b) The criteria for adequate replacement dwellings are in all respects identical to those for comparable replacement dwellings, except that an adequate replacement dwelling, with respect to the number of rooms, habitable living space and type of construction, need be only adequate not comparable.

(c) Reasonable Offer of Replacement Housing. The requirements of this section shall be deemed to have been satisfied if a person is offered and refuses without justification reasonable choices of specifically identified comparable replacement dwellings which fully satisfy the

criteria set forth in the Guidelines. The offers shall be in writing, in a language understood by the displaced person. The number of offers determined to be reasonable should be not less than three.

(d) Notice. No eligible person occupying property shall be required to move from a dwelling or to move a business or farm operation, without at least 90 days written notice from the public entity requiring the displacements. Public entities shall notify each individual tenant to be displaced as well as each owner-occupant. (These requirements are in addition to those contained in sections 6040 and 6046.)

(e) Waiver. The requirement in subsection (a) above may be waived only when immediate possession of real property is of crucial importance and by one of the following circumstances:

- (1) When displacement is necessitated by a major disaster as defined in Section 102 (2) of the Hazard Mitigation and Relocation Assistance Act of 1993 (42 U.S.C. 5121) and/or the California Natural Disaster Assistance Act.
- (2) During periods of declared national or state emergency.

6044. Temporary Move.

(a) General.

- (1) A public entity shall be required to minimize to the greatest extent feasible the use of temporary relocation resources (as defined in section 6042) but, when a project plan anticipates moves back into completed project accommodations, temporary relocation resources may be used, at the displaced person's election for a limited period of time.
- (2) Temporary relocation does not diminish the responsibility of the public entity to provide relocation assistance, services and benefits designed to achieve permanent relocation of displaced persons into comparable replacement dwellings.

(b) Requirements.

(1) Temporary replacement housing may not be relied upon if comparable replacement housing will not be available to the displaced person within 12 months of the date of the temporary move.

(2) Prior to the move, the public entity shall have determined and have provided written assurance to each displaced person that:

(A) Comparable replacement housing will be made available at the earliest possible time but in any event no later than 12 months from the date of the move to temporary housing. Temporarily housed persons may agree to extend the 12 month limitation but, if they do not, the public entity shall ensure that comparable replacement dwellings are available within the 12 month period.

(B) Comparable replacement housing will be made available, on a priority basis, to the individual or family who has been temporarily rehoused.

(C) The move to temporary housing will not affect a claimant's eligibility for a replacement housing payment nor deprive him of the same choice of replacement housing units that would have been made available had the temporary move not been made and the costs of a temporary move will not be considered as all or a part of the relocation payments to which a displaced person is entitled.

(D) If a project plan anticipates moves back into replacement housing accommodations in the project or program area, the person who has been temporarily displaced will be given priority opportunity to obtain such housing accommodations.

(E) The public entity will pay all costs in connection with the move to temporary housing, including increased housing costs.

6046. Information Program.

(a) Basic Requirements. The displacing entity shall establish and maintain an information program that provides for the following:

(1) Preparation and distribution of informational material as early as practicable, to each occupant of the property. This material shall be distributed within 60 days following the initiation of negotiations (see paragraph 6040(a)(1)) and not less than 90 days in advance of displacement except for those situations described in subsection 6042(e). Where appropriate, separate informational statements shall be prepared for residential and for non-residential occupants.

(2) Conducting personal interviews and maintaining personal contacts with occupants of the property to the maximum extent practicable.

(3) Utilizing meetings, newsletters, and other mechanisms, including local media available to all persons, for keeping occupants of the property informed on a continuing basis. The criterion for selecting among various alternatives shall be the likelihood of actually communicating information to such persons. Legal publications, legal ads in local newspapers of general circulations and similar means which may go unnoticed are deemed to be inadequate.

(b) Language. Informational material should be prepared in the language(s) most easily understood by the recipients. In displacement areas where there are significant concentrations of persons who do not read, write, or understand English fluently, the native language of the people should be used and all information material should be provided in the native language(s) and English.

(c) Method of Delivery. To assure receipt of the informational material, the local agency should arrange to have the material either hand-delivered to each occupant of the property with a request for a written receipt, or sent by certified mail, return receipt requested.

(d) General and Specific Information. In addition to disseminating general information of the type described in this section, the displacing entity shall also provide each person with individual, written notification as soon as his eligibility status has been established.

(e) Content of Informational Statement. Attachment A identifies the kinds of information required to be included in statements distributed to occupants of the property. The figure lists minimum requirements. The displacing entity should include any additional information that it believes would be helpful (See Attachment A)

6048. Survey and Analysis of Relocation Needs.

(a) (1) Requirement. Immediately following the initiation of negotiations interview all eligible persons, business concerns, including nonprofit organizations, and farm operations to obtain information upon which to plan for housing and other accommodations, as well as counseling and assistance needs.

(2) Coordination with Other Agencies. Other agencies may also be conducting surveys in the area at the same time. Coordination will be necessary to avoid duplication and to ensure that necessary information is available at the appropriate time. Surveys utilized to gather data for social service referrals should be planned in cooperation with social service agencies and a referral system should be established.

(3) Information to Persons To Be Displaced. The local agency shall carefully explain and discuss fully with each person interviewed the purpose of the survey and the nature and extent of relocation payments and assistance that will be made available. All persons shall be advised and encouraged to visit the relocation office for information and assistance.

(4) Relocation Records. Based on information obtained during the survey and other sources as applicable, the local agency shall prepare and maintain an accurate relocation record for each person to be displaced. The record shall contain a description of the pertinent characteristics of the persons to be displaced and the assistance deemed to be necessary.

(b) The survey shall be by direct, personal interview, except where repeated efforts indicate that is not possible. When a person cannot be interviewed or the interview does not produce the information to be obtained reasonable efforts shall be made to obtain the information by other means. Eligible persons should be encouraged to bring any change in their needs to the attention of relocation officials. The survey shall be updated at least annually.

(c) A public entity shall endeavor to obtain the following information: income; whether a person is elderly or handicapped; size of family; age of children; location of job and factors limiting accessibility; area of preferred relocation; type of unit preferred; ownership or tenant preference; need for social and public services, special schools and other services; eligibility for publicly assisted housing; and with reference to the present dwelling, the rent, the type and quality of construction, the number of rooms and bedrooms, the amount of habitable living space, and locational factors including among others public utilities, public and commercial facilities (including transportation and schools) and neighborhood conditions (including municipal services). Other matters that concern a household as its members contemplate relocation should also be included.

(d) A written analysis of relocation housing needs shall be prepared. It shall be prepared in sufficient detail to enable determination of the availability for all potential displacees of housing which meets the standards set forth in the definition of comparable replacement housing. The information concerning homeownership and rental units shall be provided separately. The number of units needed shall be identified by cost for each size category. The needs of elderly and handicapped households shall be shown separately and shall include information on the number of such households requiring special facilities and the nature of such facilities. The statement of relocation housing needs shall include a description of the locational characteristics of the displacement area neighborhoods corresponding to the requirements of comparable replacement housing. Information shall be provided concerning proximity to present employment sources, medical and recreational facilities, parks, community centers, shopping, transportation and schools. Information concerning proximity to other relevant needs and amenities is essential to ensuring that no residents are incapacitated by the relocation and such information also should be provided.

6050. Failure to Conduct Timely and Effective Survey. When a survey is not conducted in a timely and effective manner, the public entity shall be obligated to make every effort to locate all eligible persons who have moved so that their needs can be included in the survey and the impact on the housing stock in the community can be more accurately determined. The public entity shall offer such persons all relocation assistance and benefits for which they otherwise qualify and, in addition, shall compensate such persons for all costs occasioned by the entity's failure to provide timely notice and offers of relocation assistance and benefits.

6052. Survey and Analysis of Available Relocation Resources.

(a) (1) To enable a public entity reasonably to determine that the requisite comparable replacement dwellings will be available, the public entity, within 60 days following the initiation of negotiations, shall initiate a survey and analysis of available comparable relocation resources.

If a recent survey that provides the information identified in this section is not available, the public entity shall conduct a survey and analysis of the housing market. If a recent survey is available, but it does not reflect more recent, significant changes in housing market conditions, the survey shall be updated or it shall not be relied upon.

(2) When more than 15 households will be displaced, survey results shall be submitted for review to local housing, development and planning agencies and shall be compared to other existing information on housing availability.

(3) The survey shall be updated at least annually.

(b) The survey area shall be reasonably related to the displacement area and to the needs and preferences of the persons to be displaced, as indicated in the written analysis prepared pursuant to section 6048. The survey area shall have relevant characteristics (see subsection 6008(c)) which equal or exceed those of the neighborhood from which persons are to be displaced.

(c) A written analysis of relocation housing resources shall be prepared in sufficient detail to enable determination of the availability for all potential displacees of housing which meets the standards set forth in the definition of comparable replacement housing.

The information concerning homeownership and rental units shall be provided separately. The number of units available shall be identified by cost for each size category. Resources available to meet the needs of elderly and handicapped households shall be shown separately and shall include information on the number of units with special facilities and the nature of such facilities. The analysis of resources shall include a description of the locational characteristics of the survey area neighborhoods corresponding to the requirements of comparable replacement housing. Information shall be provided concerning proximity to present employment sources (with the consent of the displaced person a potential employer may be substituted), medical and recreational facilities, parks, community centers, shopping, transportation and schools. Information concerning proximity to other relevant needs and amenities is essential to ensuring that residents are not incapacitated by the relocation and such information should also be provided.

(d) (1) Units which do not satisfy the standards of comparable replacement housing, including the locational criteria, shall not be counted as a relocation resource.

(2) Uncompleted new construction or rehabilitation shall not be included in the gross figure unless there is a substantial likelihood that the units will be available when needed and at housing or rental costs within the financial means of the prospective occupants.

(3) In addition to the other requirements of this section, the gross figure representing the number of units available shall be discounted to reflect both concurrent displacement and the extent to which turnover is represented. Concurrent displacement by the federal government and its agencies, including federally-assisted projects, as well as displacement by other public entities shall be taken into account. Turnover is the dynamic operation by which occupancy changes occur within a standing inventory over a period of time and theoretically could occur in the complete absence of vacancies on a person to person basis. The use of turnover for relocation is not permissible. The displacing entity shall assume that four percent of the rental and one percent of the ownership units which meet the standards of comparable replacement dwellings (see section 6008(c)) represents turnover. The displacing entity shall use a higher percentage figure if such figure is more accurate. The displacing entity may use a lower figure if it establishes that the lower figure is a more accurate assumption.

(4) Publicly subsidized housing, including public housing, shall not be counted as a resource unless it reasonably can be established that:

- (A) The units will be available when needed;
- (B) The governmental body providing the subsidy has made, in writing, a reasonably binding commitment of assistance; and
- (C) The units have been inspected and determined to be decent, safe and sanitary and the income ceilings, rent ranges and age restrictions, if any, have been considered.
- (D) The number of units available in the community exceeds the number of households in need of the units. This requirement may be waived by the Department if the public entity can establish that such units will be replaced by last resort housing within two years. To establish that last resort housing will be developed as required the public entity must have site control with permissive zoning, preliminary plans and conditional commitments for subsidy and financing or the equivalent. The public entity also must identify ownership.
- (e) Uncompleted new construction or rehabilitation which is subsidized by public funds shall not be counted as a relocation resource unless the units are being subsidized to provide relocation resources.

6054. Last Resort Housing.

- (a) No eligible person shall be required to move from his dwelling because of the action of a public entity unless comparable replacement housing is available to him.
- (b) If on the basis of its survey and analysis of relocation needs and resources a public entity cannot determine that comparable replacement housing will be available as required, the public entity may not proceed with any phase of a project or other activity which will result in displacement unless it provides such housing. (See Article 4.)
- (c) If the action of a public entity has resulted or is resulting in displacement and comparable replacement housing is not available as needed, the public entity shall use its funds, or funds authorized for the project to provide such housing (see Article 4), or shall terminate or suspend further implementation of the project activity in accordance with the provisions of section 6018.
- (d) Temporary relocation resources may be relied upon in the interim only if the provisions of section 6004 are satisfied.

6056. Termination of Relocation Assistance. A public entity's relocation obligations cease under the following circumstances:

- (a) A displaced person moves to a comparable replacement dwelling and received all assistance and payments to which he is entitled.
- (b) The displaced person moves to substandard housing, refuses reasonable offers of additional assistance in moving to decent, safe and sanitary replacement dwelling and receives all payments to which he is entitled.
- (c) All reasonable efforts to trace a person have failed. To ensure that the action of a public entity does not reduce the housing supply in critical categories or locations, unsuccessful efforts to trace a particular displaced person shall not lessen the obligation to provide last resort housing (See Article 4.)
- (d) The business concern or farm operation has received all assistance and payments to which it is entitled and has been successfully relocated or has ceased operations.
- (e) A person displaced from his dwelling, business or farm refuses reasonable offers of assistance, payments and comparable replacement housing.

6058. Eviction.

- (a) Eviction is permissible only as a last resort. It in no way affects the eligibility of evicted displaced persons for relocation payments. Relocation records must be documented to reflect the specific circumstances surrounding the eviction.
- (b) Eviction shall be undertaken only for one or more of the following reasons:
 - (1) Failure to pay rent, except in those cases where the failure to pay is due to the lessor's failure to keep the premises in habitable condition, is the result of harassment or retaliatory action or is the result of discontinuation or substantial interruption of services.
 - (2) Performance of a dangerous, illegal act in the unit.
 - (3) Material breach of the rental agreement and failure to correct breach within 30 days of notice.
 - (4) Maintenance of a nuisance and failure to abate within a reasonable time following notice.
 - (5) Refusal to accept one of a reasonable number of offers of replacement dwellings.
 - (6) The eviction is required by State or local law and cannot be prevented by reasonable efforts on the part of the public entity.

6060. Evaluation of Relocation.

- (a) A public entity is encouraged to evaluate its relocation program, assessing the quality and quantity of services provided as well as displacee satisfaction, to determine the adequacy of program planning and to ascertain whether any persons have been denied the full benefits and services to which they are entitled. The evaluation should be based upon an annual or continual inspection of files and records, case interviews and inspection of replacement housing and business and farm replacement locations and discussions with local individuals or organizations familiar with relocation issues. A written evaluation should be prepared at least annually.
- (b) The files and records of displaced persons and property owners should be selected at random. The review should include any cases that were identified by previous monitoring as requiring corrective action and should assess the public entity's progress in taking corrective action. Both relocation and acquisition activities should be covered by the review.
 - (1) The relocation sample should include cases in which all payments have been completed and cases in which the person has been displaced but all payments have not yet been made. The sample should provide a basis for the reviewer to determine not only whether payments were computed properly and made promptly, but also whether displaced persons received proper notice of the full range of relocation assistance and services to which they are entitled. Priority attention should be given to cases in which a grievance has been filed or the agency has determined that a person is ineligible for relocation benefits.
 - (2) The acquisition sample should be based on cases in which settlement has been completed. However, if necessary to provide a representative sample of acquisition activities, the reviewer should include incomplete transactions in which negotiations have been initiated.
- (c) After the records and files have been reviewed, the reviewer should select cases for further evaluation through personal interviews with displaced persons and/or owners and the inspection of housing to which persons have moved. The interviews and housing inspections should serve both to spot check the accuracy of the information obtained in the examination of the records and files and give the reviewer a better perspective on the agency's performance. The number and type of cases for which interviews and housing inspections are to be carried out should reflect the reviewer's judgement based on the information he has just reviewed.

Generally, an interview and inspection should be carried out for at least one of every five cases for which the files and records have been reviewed. Only where the number of persons displaced is less than 25 should the number of interviews and inspections be less than 10. In no case should the number of interviews and inspections be lower than the lesser of five and the number of persons displaced. To the extent possible, the interviews should cover a representative cross section of the types of cases in the agency's workload: e.g., relocation cases involving families of various sizes as well as individuals and business concerns (including both owners and tenants), and acquisition transactions involving residential, commercial and industrial properties.

- (d) In addition to the above, the following factors are among those which should be considered:
- (1) The effectiveness of efforts to provide relocation services to displaced persons, including timeliness of notice and correctness of eligibility determinations.
 - (2) The satisfaction of relocated families, individuals and business concerns in their new locations.
 - (3) The extent to which self-moves to substandard housing have been minimized.
 - (4) The effectiveness of efforts to provide relocation services to business concerns, including counseling services and SBA loans to aid in their reestablishment.
 - (5) The promptness of processing claims and the making of payments, including the amounts, delivery, and use of relocation payments.
 - (6) The number and magnitude of rent increases following acquisition and displacement.
 - (7) The effectiveness of methods used to resolve difficulties experienced by site occupants.
 - (8) The effectiveness of the public entity's grievance procedures.
 - (9) The extent of resident involvement in planning the relocation program.
 - (10) The effectiveness in assuring equal opportunity for displaced persons and in reducing patterns of minority-group concentration.
 - (11) The effectiveness of relocation in upgrading the housing and overall environmental conditions of persons displaced.
 - (12) The effectiveness of the social service program, including counseling services, in helping residents adjust to relocation and in helping solve individual and family problems.
 - (13) The impact on those segments of the housing market serving the income groups displaced.

ARTICLE 3. RELOCATION PAYMENTS

- 6080. Purpose.** The purpose of this Article is to set forth the types of, and specific eligibility criteria for, relocation payments to displaced persons. Basic eligibility conditions are set forth in section 6084. Specific conditions relating to particular payments are described in later sections.
- 6082. Relocation Payment by Public Entity.** A public entity shall make relocation payments to or on behalf of eligible displaced persons in accordance with and to the full extent permitted by this Article. The obligations described in this Article are in addition to those in Article 6.
- 6084. Basic Eligibility Conditions.** A person establishes basic eligibility for relocation payments if he satisfies the conditions described in section 6034. A person who moves from real property or who moves his personal property from real property because he will be displaced from other real property on which he conducts a business or farm operation, establishes eligibility on the basis of the move from such other property only for payments made pursuant to section 6090.
- 6086. Notice of Intent to Displace.** A public entity may issue a written Notice of Intent to Displace at any time after forming a reasonable expectation of acquiring real property. Such a notice, by establishing eligibility prior to acquisition, will enable a public entity to respond to hardship and other situations.
- 6088. Filing of Claims; Submission of Tax Returns.** All claims filed with the public entity shall be submitted within eighteen months of the date on which the claimant receives final payment for the property or the date on which he moves, whichever is later. The displacing entity may extend this period upon a proper showing of good cause. Except where specifically provided otherwise a claimant shall not be required to submit a copy of his tax returns in support of a claim for relocation payments.
- 6090. Actual Reasonable Moving Expenses.**
- (a) General. A public entity shall make a payment to a displaced person who satisfies the pertinent eligibility requirements of section 6084 and the requirements of this section, for actual reasonable expenses specified below and subject to the limitations set forth in subsection (c) of this section for moving himself, his family, business, farm operation or other personal property. In all cases the amount of a payment shall not exceed the reasonable cost of accomplishing the activity in connection with which a claim has been filed. The moving and related expenses for which claims may be filed shall include:
- (1) Transportation of persons and property not to exceed a distance of 50 miles from the site from which displaced, except where relocation beyond such distance of 50 miles is justified;
 - (2) Packing, crating, unpacking and uncrating personal property;
 - (3) Such storage of personal property, for a period generally not to exceed 12 months, as determined by the public entity to be necessary in connection with relocation;
 - (4) Insurance of personal property while in storage or transit; and
 - (5) The reasonable replacement value of property lost, stolen or damaged (not through the fault or negligence of the displaced person, his agent, or employee) in the process of moving, where insurance covering such loss, theft or damage is not reasonably available.

- (6) The cost of disconnecting, dismantling, removing, reassembling, reconnecting and reinstalling machinery, equipment or other personal property (including goods and inventory kept for sale) not acquired by the public entity, including connection charges imposed by public utilities for starting utility service.
- (b) Actual Reasonable Moving Expenses — Displaced Business Concerns and Farm Operations. In addition to those compensable expenses set forth in subsection (a) of this section, a displaced business concern or farm operation may file a claim for the following moving and related expenses:
- (1) The cost, directly related to displacement of modifying the machinery, equipment, or other personal property to adapt it to the replacement location or to utilities available at the replacement location or modifying the power supply.
 - (2) Claims for payment under this subsection shall be subject to the following limitations:
 - (A) Reimbursable costs shall be reasonable in amount.
 - (B) The cost could not be avoided or substantially reduced at an alternate available and suitable site to which the business was referred.
 - (3) The cost of any license, permit or certification required by a displaced business concern to the extent such cost is necessary to the reestablishment of its operation at a new location.
 - (4) The reasonable cost of any professional services (including but not limited to, architects', attorneys', or engineers' fees, or consultants' charges) necessary for planning the move of personal property, moving the personal property, or installation of relocated personal property at the replacement site.
 - (5) Where an item of personal property which is used in connection with any business or farm operation is not moved but is replaced with a comparable item, reimbursement in an amount not to exceed (1) the replacement cost, minus any net proceeds received from its sale, or (2) the estimated cost of moving, whichever is less.
- (c) Advance Payments. A displaced person may be paid for his anticipated moving expenses in advance of the actual move. A public entity shall provide advance payment whenever later payment would result in financial hardship. Particular consideration shall be given to the financial limitations and difficulties experienced by low and moderate income persons and small farm and business operations.
- (d) The specific provisions contained in this section are not intended to preclude a public entity's reliance upon other reasonable means of effecting a move, including contracting moves and arranging for assignment of moving expense payments by displaced persons.
- (e) Self-moves. Without documentation of moving expenses actually incurred, a displaced person electing a self-move may submit a claim for his moving expenses to the public entity in an amount not to exceed an acceptable low bid or an amount acceptable to the displacing entity.
- (f) Personal Property of Low Value and High Bulk — Business or Farm Operation. Where, in the judgement of the public entity, the cost of moving any item of personal property of low value and high bulk which is used in connection with any business or farm operation would be disproportionate in relation to its value, the allowable reimbursement for the expense of moving such property shall not exceed the difference between the cost of replacing the same with a comparable item available on the market and the amount which would have been received for such property on liquidation. This provision may in appropriate situations be applied to claims involving the moving of junkyards, stockpiles, sand, gravel, minerals, metals and similar property.
- (g) Documentation in Support of a Claim.

- (1) General. Except in the case of a displaced person conducting a self-move as provided in subsection (e) above, a claim for a payment under this section shall be supported by a bill or other evidence of expenses incurred. By prearrangement between the public entity, the site occupant, and the mover, evidenced in writing, the claimant or the mover may present an unpaid moving bill to the public entity, and the public entity may pay the mover directly
- (2) Business and Farm Operations. Each claim in excess of \$1,000 for the costs incurred by a displaced person for moving his business or farm operation shall be supported by competitive bids in such number as are practical. If the public entity determines that compliance with the bid requirement is impractical or if estimates in an amount of less than \$1,000 are obtained, a claim may be supported by estimates in lieu of bids.
- (h) Whenever a public entity must pay the actual cost of moving a displaced person the costs of such move shall be exempt from regulations by the Public Utilities Commission as provided by section 7262 (e) of the Act. The public entity may solicit competitive bids from qualified bidders for performance of the work. Bids submitted in response to such solicitations shall be exempt from regulation by the Public Utilities Commission.
- (i) (1) Reestablishment Expenses. In addition to moving expense payments, a farm, nonprofit organization or small business of not more than 500 employees, shall be entitled to actual and reasonable reestablishment expenses, not to exceed \$10,000.00. Reestablishment expenses shall be only those expenses that are reasonable and necessary and include, but are not limited to:
- (A) Repairs or improvements to the replacement property as required by Federal, State or local law, code or ordinance.
 - (B) Modifications to the replacement property to accommodate the business operation or make replacement structures suitable for conducting the business.
 - (C) Construction and installation costs for exterior signing to advertise the business.
 - (D) Provision of utilities from right-of-way to improvements on the replacement site.
 - (E) Redecoration or replacement of soiled or worn surfaces at the replacement site, such as paint, paneling or carpeting.
 - (F) Licenses, fees and permits when not paid as part of moving expenses.
 - (G) Feasibility surveys, soil testing and marketing studies.
 - (H) Advertisement of replacement location.
 - (I) Professional services in connection with the purchase or lease of a replacement site.
 - (J) Estimated increased costs of operation during the first 2 years at the replacement site for such items as:
 - 1. Lease or rental charges,
 - 2. Personal or real property taxes,
 - 3. Insurance premiums, and
 - 4. Utility charges, excluding impact fees.
 - (K) Impact fees or one-time assessments for anticipated heavy usage.
 - (L) Other items essential to the reestablishment of the business.
 - (M) For purposes of this subsection the term "small business" shall mean a business having not more than 500 employees working at the site being acquired or displaced by a program or project, which site is the location of

economic activity. Sites occupied solely by outdoor advertising signs, displays, or devices do not qualify as a small business for purposes of this subsection.

(2) Ineligible expenses. The following is a nonexclusive listing of reestablishment expenditures not considered to be reasonable, necessary, or otherwise eligible:

(A) Purchase of capital assets, such as, office furniture, filing cabinets, machinery, or trade fixtures.

(B) Purchase of manufacturing materials, production supplies, product inventory, or other items used in the normal course of the business operation.

(C) Interior or exterior refurbishment at the replacement site which are for aesthetic purposes, except as provided in paragraph (i)(1)(E) of this section.

(D) Interest on money borrowed to make the move or purchase the replacement property.

(E) Payment to a part-time business in the home which does not contribute materially to the household income.

6092. Actual Direct Losses of Tangible Personal Property.

(a) General. A public entity shall make a payment to a displaced person who satisfies the eligibility requirements of section 6090 and this section, for actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, in an amount determined by the public entity to be in accordance with the provisions of this section.

(b) Determining Actual Direct Loss of Property. Actual direct loss of property shall be determined on the basis of the lesser of the following:

(1) The fair market value of the property for continued use at its location prior to displacement.

(2) The estimated reasonable costs of relocating the property. The public entity may require that the owner first make a bona fide effort to sell the property or it may permit the owner not to do so. The proceeds realized from any sale of all or part of the property shall be deducted from the determination of loss. In calculating payment under this section the reasonable cost of an effort to sell shall be added to the determination of loss.

(c) Documentation to Support Claim. A claim for payment hereunder shall be supported by written evidence of loss which may include appraisals, certified prices, bills of sale, receipts, canceled checks, copies of advertisements, offers to sell, auction records, and other records appropriate to support the claim or the public entity may agree as to the value of the property left in place.

6094. Actual Reasonable Expenses in Searching for a Replacement Business or Farm. A displaced person who satisfies the pertinent eligibility requirements of section 6090 with respect to actual reasonable moving expenses, shall be eligible for a payment in an amount not to exceed \$1,000.00, in searching for a replacement business or farm, including expenses incurred for:

(a) Transportation;

(b) Meals and lodging away from home;

(c) Time spent in searching, based on the hourly wage rate of the salary or earnings of the displaced person or his representative; and

(d) Fees paid to a real estate agent or broker to locate a replacement business or farm.

6096. Moving Expenses — Outdoor Advertising Businesses. A displaced person who conducts a lawful activity primarily for assisting in the purchase, sale, resale, manufacture, processing,

or marketing of products, commodities, personal property, or services by the erection and maintenance of outdoor advertising displays is entitled to payment for the reasonable cost of moving such displays or their in-place value, whichever is lesser.

6098. Alternate Payments — Individuals and Families. A person or family, who is displaced from a dwelling and is eligible for a payment for actual reasonable moving expenses under section 6090, may elect to receive and shall be paid, in lieu of such payment a moving expense and dislocation allowance determined in accordance with established Federal Highway Administration schedules maintained by the California Department of Transportation.

6100. Alternate Payments — Businesses and Farm Operations.

(a) General.

(1) A person who is displaced from his place of business or farm operation and is eligible for payments under sections 6090, 6092, 6094 or 6096, and complies with the requirements of this section, may elect to receive and shall be paid, in lieu of such payments, a payment equal to the average annual net earnings of the business or farm operation (but not including a business as described in section 6096) as determined in accordance with subsection (b) below, except that such payment shall be not less than \$1,000.00 nor more than \$20,000.00. For purposes of this section, the dollar limitation specified in the preceding sentence shall apply to a single business, regardless of whether it is carried on under one or more legal entities.

(2) Loss of Goodwill. When payment under this section will precede settlement of a claim for compensation for loss of good will under the Eminent Domain Law, the public entity before tendering payment shall state in writing what portion of the payment, if any, is considered to be compensation for loss of goodwill and shall explain in writing that any payment made pursuant to Code of Civil Procedure, Section 1263.510 et seq. (the Eminent Domain Law, Chapter 9, Article 6 - "Compensation for Loss of Goodwill") will be reduced in the same amount. The portion considered to be compensation for loss of goodwill shall not exceed the difference between the payment made under this section and an amount which reasonably approximates the payments for which the displaced person otherwise would be eligible under Section 6090, 6092, 6094 and 6096. Failure to provide such written statement and explanation shall constitute a conclusive indication that no portion of the payment is considered to be compensation for loss of goodwill for the purposes of that portion of the Code of Civil Procedure referenced above.

(b) Requirements — Businesses. Payment shall not be made under this section unless the public entity determines that:

(1) The business is not operated solely for rental purposes and cannot be relocated without a substantial loss of its existing patronage, based on a consideration of all pertinent circumstances including such factors as the type of business conducted, the nature of clientele, the relative importance to the displaced business of its present and proposed location, and the availability of a suitable relocation site;

(2) The business is not part of a commercial enterprise having no more than three (3) other establishments which are not being acquired for a project and which is engaged in the same or similar business. Whenever the sole remaining facility of a business which has been displaced from its principal location:

(A) Has been in operation for less than two years;

- (B) Has had average annual gross receipts of less than \$2,000.00 during the two taxable years prior to displacement of the major component of the business; or
 - (C) Has had average annual net earnings of less than \$1,000.00 during the two taxable years prior to the displacement of the major component of the business, the remaining facility will not be considered another “establishment” for purposes of this section; and
- (3) The displaced business:
- (A) Had average annual gross receipts of at least \$5,000.00 during the two taxable years prior to displacement; or
 - (B) The displaced business had average annual net earnings of at least \$1,000.00 during the two taxable years prior to displacement; or
 - (C) The displaced business contributed at least 33 1/3 percent of the total gross income of the owner(s) during each of the two taxable years prior to displacement. If in any case the public entity determines that the two year period prior to displacement is not representative of average receipts, earnings or income, it may make use of a more representative period.
 - (D) If the application of the above criteria creates an inequity or hardship, the displacing agency may use other criteria as permitted in 49 CFR 24.306.
- (c) Determination of Number of Businesses. In determining whether one or more legal entities, all of which have been acquired, constitute a single business, the following factors among others shall be considered:
- (1) The extent to which the same premises and equipment are shared.
 - (2) The extent to which substantially identical or intimately interrelated business functions are pursued and business and financial affairs are commingled.
 - (3) The extent to which such entities are held out to the public, and to those customarily dealing with such entities, as one business.
 - (4) The extent to which the same person or closely related persons own, control or manage the affairs of the entities.
- (d) Requirements — Farms. In the case of a farm operation, no payment shall be made under this section unless the public entity determines that the farm met the definition of a farm operation prior to its acquisition. If the displacement is limited to only part of the farm operation, the operator will be considered to have been displaced from a farm operation if: the part taken met the definition of a farm operation prior to the taking and the taking caused such a substantial change in the nature of the existing farm operation as to constitute a displacement.
- (e) Requirements — Nonprofit Organizations. In the case of a nonprofit organization, no payment shall be made under this section unless the public entity determines that:
- (1) The nonprofit organization cannot be relocated without a substantial loss of its existing patronage (the term “existing patronage” as used in connection with a nonprofit organization includes the membership, persons, community, or clientele served or affected by the activities of the nonprofit organization); and
 - (2) The nonprofit organization is not a part of an enterprise having more than three (3) other establishments not being acquired which is engaged in the same or similar activity.
- (f) Net Earnings. The term “average annual net earnings” as used in this section means one-half of any net earnings of the business or farm operation, before federal and state income taxes, during the two (2) taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired for such project, or during such other period as the head of the public entity determines to be more equitable for

establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse or his dependents during such period. The term "owner" as used in this section includes the sole proprietor in a sole proprietorship, the principal partners in a partnership, and the principal stockholders of a corporation, as determined by the public entity. For purposes of determining a principal stockholder, stock held by a husband, his wife and their dependent children shall be treated as one unit.

(g) If a displaced person who conducts a business or farm operation elects to receive a fixed payment under this section, he shall provide proof of his earnings from the business or farm operation to the Agency concerned. Proof of earnings may be established by income tax returns, financial statements and accounting records or similar evidence acceptable to the public entity.

6102. Replacement Housing Payments for Homeowners.

(a) General. A public entity shall make to a person who is displaced from a dwelling and who satisfies the pertinent eligibility requirements of section 6084 and the conditions of subsection

(b) of this section, a payment not to exceed a combined total of \$22,500.00 for:

(1) The amount, if any, which when added to the acquisition cost of the dwelling acquired for the project equals the reasonable cost, as determined in accordance with subsection (c), of a comparable replacement dwelling. This amount shall not exceed the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling, except where a displaced person, in the circumstance described in paragraph 6108(a)(1), is willing to use the extra money to improve the condition of the dwelling.

(2) The amount, if any, to compensate the displaced person for any increased interest costs, as determined in accordance with subsection (c), he is required to pay for financing the acquisition of a replacement dwelling. The payment shall not be made unless the dwelling acquired by the public entity was encumbered by a bona fide mortgage which was a valid lien on the dwelling for not less than 180 days prior to the initiation of negotiations for acquisition of such dwelling. (This time requirement may be modified in accordance with the provisions of subsection (b) below.)

(3) Reasonable expenses, determined in accordance with subsection (c) of this section, incurred by the displaced person incident to the purchase of the replacement dwelling.

(4) In accordance with section 6108, the cost of rehabilitating a dwelling which does not satisfy the decent, safe and sanitary standard.

(b) Eligibility Conditions.

(1) A displaced person is eligible for payment under this section if such person:

(A) Is displaced from a dwelling that is acquired;

(B) Has actually owned and occupied such dwelling for not less than 180 days prior to the initiation of negotiations for its acquisition; and

(C) Purchases and occupies a replacement dwelling within one year subsequent to the date on which he received final payment from the public entity of all costs of the acquired dwelling or the date on which he moves from the acquired dwelling, whichever is later.

(2) If an owner satisfies all but the 180 day requirement and can establish to the satisfaction of the public entity that he bought the dwelling with the intention of making it his place of residence, that the move was not motivated by a desire to receive relocation assistance and benefits, and that he neither knew nor should have known that a public acquisition was intended the public entity may reduce the requirement as necessary.

(3) Where for reasons beyond the control of the displaced person completion of construction, rehabilitation, or relocation of a replacement dwelling is delayed beyond the date by which occupancy is required, the public entity shall determine the date of occupancy to be the date the displaced person enters into a contract for such construction, rehabilitation, or relocation or for the purchase, upon completion, of a dwelling to be constructed or rehabilitated, if, in fact, the displaced person occupies the replacement dwelling when the construction or rehabilitation is completed.

(4) Where, for reasons of hardship or circumstances beyond the control of the displaced person, such person is unable to occupy the replacement dwelling by the required date, the public entity may extend the deadline as necessary. If by the deadline the displaced person has contracted to purchase a replacement dwelling, the public entity should extend the deadline.

(5) No person otherwise eligible for a payment under this section or under section 6104 shall be denied such eligibility as a result of his being unable, because of a major state or national disaster, to meet the occupancy requirements.

(c) Computation of Replacement Housing Payment.

(1) Cost of Comparable Replacement Dwelling.

(A) In determining the reasonable cost of a comparable replacement dwelling, the public entity concerned shall use one of the following methods:

1. Comparative Method. On a case-by-case basis by determining the listing price of dwellings which have been selected by the public entity and which are most representative of the acquired dwelling unit and meet the definition of comparable replacement dwelling set out in subsection 6008(c). Whenever possible the listing price of at least three dwellings shall be considered.

2. Schedule Method. Where the public entity determines that the comparative method is not feasible, it may establish a schedule of reasonable acquisition costs for the various types of comparable replacement dwellings. If more than one entity is administering a project causing displacement in the area, it shall cooperate with the other entities in establishing a uniform schedule for the area. The schedule shall be based on a current analysis of the market to determine a reasonable cost for each type of dwelling to be purchased. In large urban areas this analysis may be confined to the sub-area from which persons are displaced or may cover several different sub-areas, if they satisfy or exceed the criteria listed in subsection 6008(c). To assure the greatest comparability of dwellings in any analysis, the analysis shall be divided into classifications of the type of construction, number of bedrooms, and price ranges.

3. Alternative Method. Where the public entity determines that neither the schedule, nor comparative method is feasible in a given situation, by the use of another reasonable method.

(B) Whichever method is selected the cost shall be updated to within three months of the date of purchase of the replacement dwelling.

(2) Interest Payments. Interest payments shall be equal to the discounted present value of the difference between the aggregate interest applicable to the amount of the principal of the mortgage on the acquired dwelling over its remaining term at the time of acquisition, and other debt service costs, and the aggregate interest paid on the mortgage on the replacement dwelling, and other debt service costs. The term and

amount of the mortgage on the replacement dwelling for purposes of this paragraph shall be the lesser of the remaining term and amount of the mortgage on the acquired dwelling, or the actual term and amount of the mortgage on the replacement dwelling. The amount of the debt service cost with respect to the replacement dwelling shall be the lesser of the debt service cost based on the cost required for a comparable dwelling, or the debt service cost based on the actual cost of the replacement dwelling. Prepaid interest or "points" shall be considered in the determination of aggregate interest.

In calculating the amount of compensation, increased interest cost shall be reduced to discounted present value using the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located.

(3) Expenses Incident to the Purchase of the Replacement Dwelling. Payment under this section shall include the amount necessary to reimburse the displaced person for actual costs incurred by him incident to the purchase of the replacement dwelling, including but not limited to the following: legal, closing, and related costs including title search, preparing conveyance contracts, notary fees, surveys, preparing drawings or plats, and charges paid incident to recordation; lender, FHA, VA or similar appraisal costs; FHA, VA or similar application fee; cost for certification of structural soundness; credit report charges; charge for owner's and mortgagee's evidence or assurance of title; escrow agent's fee; and sales or transfer taxes. Payment for any such expenses shall not exceed the amount attributable to the purchase of a replacement dwelling. Such expenses shall be reasonable and legally required or customary in the community. Reimbursement shall not be made under the provisions of this paragraph for any fee, cost, charge, or expense which is determined to be a part of the debt service or finance charge under Title I of the Truth in Lending Act (Pub. L. 90-321), and Regulation Z issued pursuant thereto by the Board of Governors of the Federal Reserve System. Any such sum should be considered in the determination of interest payments.

(d) Multi-family Dwelling. In the case of a displaced homeowner who is required to move from a one-family unit of a multi-family building which he owns, the replacement housing payment shall be based on the cost of a comparable one-family unit in a multi-family building of approximately the same density or if that is not available in a building of the next less density, or, if a comparable one-family unit in such a multi-family building is not available, the cost of an otherwise comparable single-family structure.

(e) Owner Retention.

(1) If a displaced homeowner elects to retain, move, and occupy his dwelling, the amount payable under this section is the difference between the acquisition price of the acquired property and the sum of the moving and restoration expenses, the cost of correcting decent, safe, and sanitary deficiencies, if any, and the actual purchase price of a comparable relocation site. A public entity may limit the payment made under this subsection to the amount of the replacement housing payment for which the homeowner would otherwise be eligible.

(2) The payment shall not exceed \$22,500.

(f) Provisional Payment Pending Condemnation. If the exact amount of a replacement housing payment cannot be determined because of a pending condemnation suit, the public entity concerned may make a provisional replacement housing payment to the displaced homeowner equal to the difference between the public entity's maximum offer for the property and the reasonable cost of a comparable replacement dwelling, but only if the homeowner enters into an agreement that upon final adjudication of the condemnation suit the replacement housing payment will be recomputed on the basis of the acquisition price determined by the court. If the

acquisition price as determined by the court is greater than the maximum offer upon which the provisional replacement housing payment is based, the difference will be refunded by the homeowner to the public entity. If the acquisition price as determined by the court is less than the maximum offer upon which the provisional replacement housing payment is based, the difference will be paid to the homeowner.

(g) Lease of Condominium. For the purposes of this section, the leasing of a condominium for a 99-year period, or for a term which exceeds the life expectancy of the displaced person as determined by the most recent life tables in Vital Statistics of the United States, as published by the Public Health Service of the Department of Health, Education and Welfare, shall be deemed a purchase of the condominium.

6104. Replacement Housing Payments for Tenants and Certain Others.

(a) General. A public entity shall make to a displaced person who satisfies the eligibility requirements of section 6084 and the conditions of subsection (b) below, a payment not to exceed \$5,250.00 for either:

(1) An amount, computed in accordance with paragraph (d)(1) of this section, necessary to enable such person to lease or rent a replacement dwelling for a period not to exceed 42 months; or

(2) An amount, computed in accordance with paragraph (d)(2) of this section, necessary to enable such person to make a downpayment on the purchase of a replacement dwelling (including incidental expenses described in section 6102).

(b) Eligibility Conditions. A displaced person is eligible for the payments specified in subsection (a) if he satisfies the following conditions:

(1) Has occupied the dwelling from which he is displaced for a period of not less than 90 days prior to the initiation of negotiation for acquisition of such dwelling.

(2) Is not eligible to receive a replacement housing payment for homeowners under section 6102 or elects not to receive such payment. Where the displaced person is the owner-occupant of the dwelling, the payment made under paragraph 6104(a)(2) shall not exceed the amount of payment to which the person would be eligible under section 6102.

(3) Whenever a payment under subsection (a)(2) is sought the displaced person shall within one year from the date of displacement purchase and occupy a replacement dwelling.

(c) The provisions in subsection 6102(b) for modifying the conditions of eligibility also apply to this section.

(d) Computation of Payment.

(1) Rentals. Except for projects commenced prior to January 1, 1998 the amount of payment necessary to lease or rent a comparable replacement dwelling, under subsection (a)(1), shall be computed by subtracting 42 times the base monthly rental of the displaced person (as determined in accordance with this subsection), from 42 times the monthly rental for a comparable replacement dwelling (as determined in accordance with this subsection): Provided, that in no case may such amount exceed the difference between 42 times the base monthly rental as determined in accordance with this subsection and 42 times the monthly rental actually required for the replacement dwelling occupied by the displaced person.

(A) Base Monthly Rental. The base monthly rental shall be the lesser of the average monthly rental paid by the displaced person for the 3-month period prior to initiation of negotiations or 30 percent of the displaced person's average monthly income. (See subsection 6008(1).) Where the displaced person was

the owner of the dwelling from which he was displaced or was not required to pay rent for that dwelling, the economic rent (see subsection 6008(h)) shall be used in lieu of the average monthly rental to calculate base monthly rental.

(B) Comparable Rental. The monthly rental for a comparable replacement dwelling shall be the amount of rent determined by the public entity by one of the methods described in paragraph 6102 (c)(1), considering rental charges instead of listing price or acquisition cost.

(C) Whichever method is selected the cost shall be updated to within three months of the date of rental of the replacement dwelling.

(2) Downpayment. The downpayment for which a payment specified under paragraph (a)(2) of this section may be made, shall not exceed the amount of a reasonable downpayment for the purchase of a comparable replacement dwelling where such purchase is financed, plus expenses incident to the purchase of a replacement dwelling computed in accordance with Section 6102. The full amount of a downpayment under this section shall be applied to the purchase of the replacement dwelling and shall be shown on the closing statement or other document acceptable to the public entity.

(e) Rental Payments for Displaced Owners and Dependents.

(1) Owners. A displaced owner who elects to rent rather than purchase a replacement dwelling and who meets the eligibility conditions specified in subsection (b) is eligible for the payment specified in paragraph (a)(1).

(2) Dependents. A dependent who is residing separate and apart from the person or family providing support, whether such separate residence is permanent or temporary, shall be entitled to payment under this section, but such payment shall be limited to the period during which the displaced dependent resides in the replacement dwelling. At the time the displaced dependent vacates that dwelling, no further payment under this section shall be made to such person. For the purposes of this paragraph a "dependent" shall be a person who derives fifty-one percent or more of his income in the form of gifts from any private person or any academic scholarship or stipend. Full-time students shall be presumed to be dependents but may rebut this presumption by demonstrating that fifty percent or more of their income is derived from sources other than gifts from another private person or academic scholarships or stipends. Dependents residing with the family of which they are a part shall not be entitled to any payment except as a part of the family.

(f) Disbursement. Except where specifically provided otherwise, the public entity shall have the authority to disburse payments under this section in a lump sum, monthly or at other intervals acceptable to the displaced person.

6106. Proration of Payments. For the purpose of calculating an alternate payment under section 6098 or a replacement housing payment under section 6102 or 6104, two or more individuals (whether they are members of one family or not) living together in and displaced from a single dwelling shall be regarded as one person.

Where a tenant is sharing a single-family dwelling with an owner-occupant and paying the owner-occupant rent for the privilege, the tenant shall not be entitled to more than one-half of the rental supplement otherwise payable. The owner-occupant shall not be required to share the payment to which he is entitled or accept a prorated amount.

6108. Condition of Replacement Dwelling.

(a) When a displaced person qualifies for a replacement housing payment (under section 6102 or 6104) by purchasing or renting a replacement dwelling, the unit, as a general rule, must be

decent, safe and sanitary. There are three exceptions. One is described in paragraph 6040(a)(6). The others are:

(1) If the purchase of such a dwelling is the result of the public entity's failure to identify a reasonable number of comparable replacement dwellings as required or if the dwelling is one to which the person was referred by the public entity, the condition of the dwelling does not effect eligibility for a replacement housing payment.

(2) If the purchase of such a dwelling is not the result of a public entity's referral or failure to refer, the otherwise eligible person qualifies for a replacement housing payment if the unit is brought into compliance with the decent, safe and sanitary standard. In this situation payment shall be limited to the amount that would be provided in connection with the purchase of a similar, comparable replacement dwelling or the sum of the actual costs of acquisition (including related expenses) and rehabilitation, whichever is less.

(b) A public entity shall not induce or encourage a displaced person to acquire a dwelling which does not satisfy the comparable replacement housing standard. (See section 6008(c).)

6110. Certificate of Eligibility. Upon request by a displaced homeowner or tenant who has not yet purchased and occupied a replacement dwelling, but who is otherwise eligible for a replacement housing payment, the public entity concerned shall certify to any interested party, financial institution, or lending agency, that the displaced homeowner or tenant will be eligible for the payment of a specific sum if he purchases and occupies a dwelling within the time limits prescribed.

6112. Manufactured Homes and Mobilehomes.

(a) General. A manufactured home or mobilehome is a dwelling. (See subsection 6008(g).) A person displaced from a manufactured home or mobilehome must satisfy the same eligibility requirements and must be provided the same assistance, assurance and payments as a person displaced from a conventional dwelling.

(b) Moving Expenses. If a manufactured home or mobilehome is moved to another site, the displaced person shall be compensated for moving expenses in accordance with sections 6090 and 6092. The provisions of these sections which generally apply only to businesses and farms shall also apply to displaced persons who move a manufactured home or mobilehome.

(c) Replacement Housing Payments.

(1) A person who owns a manufactured home or mobilehome and site and as a replacement purchases both a dwelling and site shall be provided a replacement housing payment in accordance with section 6102. A person who owns a manufactured home or mobilehome and site, and as a replacement rents both a dwelling and site, shall be provided a payment in accordance with section 6104.

(2) A person who rents a manufactured home or mobilehome and site, and as a replacement rents or purchases a dwelling and site, shall be provided a payment in accordance with section 6104.

(3) A person who owns a manufactured home or mobilehome and site, and as a replacement purchases a dwelling and rents a site, shall be provided a payment in accordance with sections 6102 and 6104. The payment shall be limited to the lesser of:

(A) The amount necessary to purchase a conventional comparable replacement manufactured home or mobilehome; or

- (B) The amount necessary to purchase a replacement manufactured home or mobilehome (in accordance with section 6102) plus the amount necessary to rent a replacement site (in accordance with section 6104). In calculating this amount, the economic rent for the site shall be used in lieu of average monthly rental to determine the base monthly rental (as provided in paragraph 6104(d)(1)).
- (4) A person who owns a site from which he moves a manufactured home or mobilehome shall be provided a replacement housing payment under section 6102 if he purchases a replacement site and under section 6104 if he rents a replacement site.
- (5) A person who owns a manufactured home or mobilehome which is acquired and rents the site shall be provided payment as follows:
- (A) If a manufactured home or mobilehome, as appropriate, is not available the amount required to purchase a conventional replacement dwelling (in accordance with section 6102);
- (B) The amount necessary to purchase a replacement manufactured home or mobilehome (in accordance with section 6102) plus the amount necessary to lease, rent or make a downpayment on a replacement site (in accordance with section 6104); or
- (C) If he elects to rent a replacement manufactured home or mobile home and site, the amount required to do so in accordance with section 6104. In calculating this payment, the average monthly rental shall equal the economic rent for the manufactured home or mobilehome plus the actual rent for the site.
- (6) Similar principles shall be applied to other possible combinations of ownership and tenancy upon which a claim for payment might be based.

6114. Affected Property.

- (a) In addition to the payments required by Section 7262 of the Act (see sections 6090, 6092, 6094, 6096, 6098 and 6100), as a cost of acquisition, the public entity shall make a payment to any affected property owner meeting the requirements of this section.
- (b) Such affected property is immediately contiguous to property acquired for airport purposes and the owner shall have owned the property affected by the acquisition by the public entity not less than 180 days prior to the initiation of negotiation for acquisition of the acquired property.
- (c) Such payment, not to exceed twenty-two thousand five hundred dollars (\$22,500.00), shall be the amount, if any, which equals the actual decline in the fair market value of the property of the affected property owner caused by the acquisition by the public entity for airport purposes of other real property and a change in the use of such property.
- (d) The amount, if any, of actual decline in fair market value of affected property shall be determined according to rules and regulations adopted by the public entity. Such rules and regulations shall limit payment under this section only to such circumstances in which the decline in fair market value of affected property is reasonably related to objective physical change in the use of acquired property.
- (e) "Affected Property" means any real property which actually declines in fair market value because of acquisition by a public entity for public use of other real property and a change in the use of the real property acquired by the public entity.

ARTICLE 4. LAST RESORT HOUSING.

- 6120. Purpose.** The purpose of this part is to set forth the criteria and procedures for assuring that if the action of a public entity results, or will result in displacement, and comparable replacement housing will not be available as needed, the public entity shall use its funds or funds authorized for the project to provide such housing.
- 6122. Determination of Need for Last Resort Housing.** If on the basis of data derived from surveys and analyses which satisfy the requirements of sections 6048 and 6052, the public entity is unable to demonstrate that comparable replacement housing will be available as required, the head of the public entity shall determine whether to use the public entity's funds or the funds authorized for the project to provide such necessary replacement housing or to modify, suspend or terminate the project or undertaking.
- 6124. Development of Replacement Housing Plan.**
- (a) General.
- (1) Following the determination pursuant to section 6122, the head of the displacing public entity shall develop or cause to be developed a replacement housing plan to produce a sufficient number of comparable replacement dwellings. The plan shall specify how, when and where the housing will be provided, how it will be financed and the amount of funds to be diverted to such housing, the prices at which it will be rented or sold to the families and individuals to be displaced, the arrangements for housing management and social services as appropriate, the suitability of the location and environmental impact of the proposed housing, the arrangements for maintaining rent levels appropriate for the persons to be rehoused, and the disposition of proceeds from rental, sale, or resale of such housing. If a referendum requirement or zoning presents an obstacle, the issue shall be addressed.
- (2) All contracts and subcontracts for the construction, rehabilitation or management of last resort housing shall be let without discrimination as to race, sex, marital status, color, religion, national origin, ancestry or other arbitrary circumstance and pursuant to an affirmative action program. The public entity shall encourage participation by minority persons in all levels of construction, rehabilitation, planning, financing and management of last resort housing. When the housing will be located in an area of minority concentration, the public entity shall seek to secure significant participation of minorities in these activities. The public entity shall require that, to the greatest extent feasible, opportunities for training and employment arising in connection with the planning, construction, rehabilitation, and operation of last resort housing be given to persons of low income residing in the area of such housing and shall determine and implement means to secure the participation of small businesses in the performance of contracts for such work.
- (b) Citizen Participation.
- (1) If the need for last resort housing exceeds 25 units, the head of the displacing public entity shall establish a committee which will consult with and provide advice and assistance to the displacing public entity in the development of the plan. The committee should include appointed representatives of the displacing entity and state and local agencies knowledgeable regarding housing in the area, including but not limited to the local housing authority and the central relocation agency, if any. In addition, the committee should include representatives of other appropriate public groups (for

example, local and area wide planning agencies) and private groups knowledgeable regarding housing and the problems of housing discrimination.

(2) The committee shall include representatives of the residents to be displaced. These representatives may be appointed by the displacing entity or elected by the residents, as the residents wish. Resident representatives shall, at a minimum, constitute one-third of the committee membership. Votes shall be allocated so that the total votes of resident representatives shall equal one-half of the total votes of the committee membership.

(3) The plan must be approved by the vote of a simple majority of the committee membership. In the event the committee fails to approve the plan, the local governing body or, where the displacing entity is a state agency, the head of the state agency may substitute its approval.

(c) Consultation with Other Housing Agencies and Organizations. The head of the displacing public entity may consult or contract with the Department, a local housing authority, or other agency or organization having experience in the administration or conduct of housing programs to provide technical assistance and advice in the development of the replacement housing plan.

6126. Submission of Plan for Comment. The head of the displacing public entity shall submit the plan and all significant amendments to the local housing and planning agencies for comment and to assure that the plan accurately reflects housing conditions and needs in the relocation area. Reviewing agencies shall have 30 calendar days following receipt of the plan to prepare their comments. Copies of all comments received shall be forwarded to the committee and available to all interested persons.

General notice of the plan shall be provided. Notice shall be designed to reach the residents of the relocation area; it shall be in accordance with the provisions of paragraph 6046(a)(3) and subsection 6046(b); and it shall be provided 30 days prior to submission to the committee, or the local governing body or head of state agency for approval.

6128. Determination by Displacing Public Entity of Feasibility and Compliance. Upon receipt and consideration of the comments, the displacing public entity shall determine whether or not:

(a) The plan is feasible.

(b) The plan complies with applicable environmental standards and procedures.

(c) The plan is compatible with the local general plan and housing element and the area wide housing plan or strategy

If any of the above determinations by the displacing public entity is negative the displacing public entity shall revise the plan as necessary. Substantial modifications in the plan shall be submitted for review and comment as provided in section 6126. If necessary for timely implementation of the plan or execution of the project, the head of the displacing public entity may shorten the time allowed in section 6126 for review of modifications.

6130. Implementation of the Replacement Housing Plan. Upon making the determinations required by section 6128, the head of the displacing entity may expend funds and take such other actions as necessary to provide, rehabilitate, or construct replacement housing pursuant to the approved replacement housing plan through methods including but not limited to the following:

(a) Transfer of funds to state and local housing agencies.

(b) Contract with organizations experienced in the development of housing.

(c) Direct construction by displacing public entity.

Whenever practicable, the head of the displacing public entity should utilize the services of federal, state, or local housing agencies, or other agencies having experience in the administration or conduct of similar housing programs

- 6132. Housing Production.** The head of the displacing public entity shall monitor the production of the last resort housing to ensure that it is in accordance with the plan.
- 6134. Jointly Sponsored Development.** Where several agencies are administering programs resulting in residential displacement, opportunities shall be sought for joint development and financing to aggregate resources in order most efficiently to provide replacement housing in sufficient quantity to satisfy the aggregate needs of such programs.
- 6136. Last Resort Housing In Lieu of Payments.** A public entity shall not require a displaced person to accept a dwelling provided pursuant to this Article in lieu of the displaced person's acquisition payment, if any, for the real property from which he is displaced or the relocation payments for which he may be eligible.
- 6138. Conformity with the Act and Other Statutes, Policies and Procedures.**
- (a) Civil Rights and Other Acts. The administration of this Article shall be in accordance with the provisions of all applicable federal and state non-discrimination laws and regulations issued pursuant thereto.
 - (b) Dwelling and Relocation Standards. Determinations made pursuant to section 6122 and any plan developed and implemented for providing replacement housing and all such housing provided thereunder shall be in conformity with the standards established in the Act and Guidelines.
- 6139. Last Resort Housing.**
- (a) Whenever comparable replacement dwellings are not available, or are not available within the monetary limits of Government Code sections 7263 or 7264, as appropriate, the displacing agency shall provide additional or alternative assistance under the provisions of this part.
 - (b) The methods of providing replacement housing of last resort include, but are not limited to:
 - (1) A replacement housing payment calculated in accordance with the provisions of sections 6102 or 6104, as appropriate, even if the calculation is in excess of the monetary limits of Government Code sections 7263 and 7264. A rental assistance payment under this part shall be paid to the displaced person in a lump sum, or at the discretion of the displacing agency, \$5,250.00 shall be paid to the displaced person in a lump sum upon displacement and the remainder of the payments shall be paid to the displacee in periodic payments over a period not to exceed 42 months unless otherwise specified by statute.
 - (2) Major rehabilitation of and/or additions to an existing replacement dwelling in a sum equal to or greater than the payment to which the displaced person is entitled under subsection (b)(1).
 - (3) The construction of a new replacement dwelling in a sum equal to or greater than the payment to which the displaced person is entitled under subsection (b)(1) of this section.
 - (4) The relocation and, if necessary, rehabilitation of a dwelling.
 - (5) The purchase of land and/or a replacement dwelling by the displacing agency and subsequent sale or lease to, or exchange with a displaced person.

- (6) For purposes of accommodating the needs of handicapped persons, the removal of barriers to the handicapped.
- (c) Only at the discretion of displacing agencies are post-acquisition tenants entitled to last resort housing payments.

ARTICLE 5. GRIEVANCE PROCEDURES

- 6150. Purpose.** The purpose of this article is to set forth guidelines for processing appeals from public entity determinations as to eligibility, the amount of payment, and for processing appeals from persons aggrieved by a public entity's failure to refer them to comparable permanent or adequate temporary replacement housing. Public entities shall establish procedures to implement the provisions of this Article.
- 6152. Right of Review.**
- (a) Any complainant, that is any person who believes himself aggrieved by a determination as to eligibility, the amount of payment, the failure of the public entity to provide comparable permanent or adequate temporary replacement housing or the public entity's property management practices may, at his election, have his claim reviewed and reconsidered by the head of the public entity or an authorized designee (other than the person who made the determination in question) in accordance with the procedures set forth in this article, as supplemented by the procedures the public entity shall establish for such review and reconsideration.
- (b) A person or organization directly affected by the relocation plan may petition the Department to review the final relocation plan of a public entity to determine if the plan is in compliance with state laws and guidelines or review the implementation of a relocation plan to determine if the public entity is acting in compliance with its relocation plan. Review undertaken by the Department under this section shall be in accordance with the provisions of sections 6158 and may be informal. Before conducting an investigation the Department should attempt to constrain disputes between parties.
Failure to petition the Department shall not limit a complainant's right to seek judicial review.
- (c) If a relocation appeals board has been established pursuant to Section 33417.5 of the Health and Safety Code, a city by ordinance may designate the board to hear appeals from local public entities which do not have an appeal process. In the absence of such an ordinance, public entities shall establish procedures to implement the provisions of this Article.
- 6154. Notification to Complainant.** If the public entity denies or refuses to consider a claim, the public entity's notification to the complainant of its determination shall inform the complainant of its reasons and the applicable procedures for obtaining review of the decision. If necessary, such notification shall be printed in a language other than English in accordance with section 6046.
- 6156. Stages of Review by a Public Entity.**
- (a) Request for Further Written Information. A complainant may request the public entity to provide him with a full written explanation of its determination and the basis therefore, if he feels that the explanation accompanying the payment of the claim or notice of the entity's determination was incorrect or inadequate. The public entity shall provide such an explanation to the complainant within three weeks of its receipt of his request.
- (b) Informal Oral Presentation. A complainant may request an informal oral presentation before seeking formal review and reconsideration. A request for an informal oral presentation shall be filed within the period described in subsection (d) of this section, and within 15 days of the request the public entity shall afford the complainant the opportunity to make such presentation. The complainant may be represented by an attorney or other person of his choosing. This oral presentation shall enable the complainant to discuss the claim with the head of the public entity

or a designee (other than the person who made the initial determination) having authority to revise the initial determination on the claim. The public entity shall make a summary of the matters discussed in the oral presentation to be included as part of its file. The right to formal review and reconsideration shall not be conditioned upon requesting an oral presentation.

(c) **Written Request for Review and Reconsideration.** At any time within the period described in subsection (d) a complainant may file a written request for formal review and reconsideration. The complainant may include in the request for review any statement of fact within the complainant's knowledge or belief or other material which may have a bearing on the appeal. If the complainant requests more time to gather and prepare additional material for consideration or review and demonstrates a reasonable basis therefor, the complainant's request should be granted.

(d) **Time Limit for Requesting Review.** A complainant desiring either an informal oral presentation or seeking a formal review and reconsideration shall make a request to the public entity within eighteen months following the date he moves from the property or the date he receives final compensation for the property, whichever is later.

6158. Formal Review and Reconsideration by the Public Entity.

(a) **General.** The public entity shall consider the request for review and shall decide whether a modification of its initial determination is necessary. This review shall be conducted by the head of the public entity or an authorized, impartial designee. (The designee may be a committee). A designee shall have the authority to revise the initial determination or the determination of a previous oral presentation. The public entity shall consider every aggrieved person's complaint regardless of form, and shall, if necessary provide assistance to the claimant in preparing the written claim. When a claimant seeks review, the public entity shall inform him that he has the right to be represented by an attorney, to present his case by oral or documentary evidence, to submit rebuttal evidence, to conduct such cross-examination as may be required for a full and true disclosure of facts, and to seek judicial review once he has exhausted administrative appeal.

(b) **Scope of Review.** The public entity shall review and reconsider its initial determination of the claimant's case in light of:

(1) All material upon which the public agency based its original determination including all applicable rules and regulations, except that no evidence shall be relied upon where a claimant has been improperly denied an opportunity to controvert the evidence or cross-examine the witness.

(2) The reasons given by the claimant for requesting review and reconsideration of the claim.

(3) Any additional written or relevant documentary material submitted by the claimant.

(4) Any further information which the public entity in its discretion, obtains by request, investigation, or research, to ensure fair and full review of the claim.

(c) **Determination on Review by Public Entity.**

(1) The determination on review by the public entity shall include, but is not limited to:

(A) The public entity's decision on reconsideration of the claim.

(B) The factual and legal basis upon which the decision rests, including any pertinent explanation or rationale.

(C) A statement to the claimant of the right to further administrative appeal, if the public entity has such an appeal structure, or if not, a statement to the claimant that administrative remedies have been exhausted and judicial review may be sought.

(2) The determination shall be in writing with a copy provided to the claimant.

(d) Time Limits.

(1) The public entity shall issue its determination of review as soon as possible but no later than 6 weeks from receipt of the last material submitted for consideration by the claimant or the date of the hearing, whichever is later.

(2) In the case of complaints dismissed for untimeliness or for any other reason not based on the merits of the claim, the public entity shall furnish a written statement to the claimant stating the reason for the dismissal of the claim as soon as possible but not later than 2 weeks from receipt of the last material submitted by the claimant or the date of the hearing, whichever is later.

- 6160. Refusals to Waive Time Limitation.** Whenever a public entity rejects a request by a claimant for a waiver of the time limits provided in section 6088, a claimant may file a written request for review of this decision in accordance with the procedures set forth in sections 6156 and 6158, except that such written request for review shall be filed within 90 days of the claimant's receipt of the public entity's determination.
- 6162. Extension of Time Limits.** The time limits specified in section 6156 may be extended for good cause by the public entity.
- 6164. Recommendations by Third Party.** Upon agreement between the claimant and the public entity, a mutually acceptable third party or parties may review the claim and make advisory recommendations thereon to the head of the public entity for its final determination. In reviewing the claim and making recommendations to the public entity, the third party or parties shall be guided by the provisions of this Article.
- 6166. Review of Files by Claimant.** Except to the extent the confidentiality of material is protected by law or its disclosure is prohibited by law, a public entity shall permit the claimant to inspect all files and records bearing upon his claim or the prosecution of the claimant's grievance. If a claimant is improperly denied access to any relevant material bearing on the claim, such material may not be relied upon in reviewing the initial determination.
- 6168. Effect of Determination on Other Persons.** The principles established in all determinations by a public entity shall be considered as precedent for all eligible persons in similar situations regardless of whether or not a person has filed a written request for review. All written determinations shall be kept on file and available for public review.
- 6170. Right to Counsel.** Any aggrieved party has a right to representation by legal or other counsel at his expense at any and all stages of the proceedings set forth in these sections.
- 6172. Stay of Displacement Pending Review.** If a complainant seeks to prevent displacement, the public entity shall not require the complainant to move until at least 20 days after it has made a determination and the complainant has had an opportunity to seek judicial review. In all cases the public entity shall notify the complainant in writing 20 days prior to the proposed new date of displacement.
- 6174. Joint Complainants.** Where more than one person is aggrieved by the failure of the public entity to refer them to comparable permanent or adequate temporary replacement housing the complainants may join in filing a single written request for review. A determination shall be made by the public entity for each of the complainants.

6176. Judicial Review. Nothing in this Article shall in any way preclude or limit a claimant from seeking judicial review of a claim upon exhaustion of such administrative remedies as are available under this Article.

ARTICLE 6. ACQUISITION POLICIES

6180. Purpose. The purpose of the Article is to set forth the practices to be followed with respect to acquisition of real property by a public entity. Public entities shall, to the greatest extent practicable, be guided by these practices.

6182. Acquisition.

- (a) A public entity shall make every reasonable effort to acquire property by negotiation and to do so expeditiously.
- (b) Before negotiations are initiated (see subsection 6008(n)) a public entity shall:
 - (1) Have the property appraised, giving the owner or his representative designated in writing an opportunity, by reasonable advance written notice, to accompany the appraiser during the inspection of the property;
 - (2) If the owner of real property is also the owner of a business conducted on the real property to be acquired or on the remainder, inform him of his possible right to compensation for loss of goodwill. The public entity should include a copy of the pertinent provisions of the Eminent Domain Law (Code of Civil Procedure Sections 1230.010 et seq.)
 - (3) Establish an amount it believes to be just compensation for the property, which amount shall, in no event, be less than the public entity's approved appraisal of the fair market value of the property as improved.
- (c) The determination of just compensation shall be based upon consideration of:
 - (1) The real property being acquired;
 - (2) Where the real property acquired is part of a larger parcel, the injury, if any, to the remainder; and
 - (3) Loss of goodwill, where the owner of the real property is also the owner of a business conducted upon the property to be acquired or on the remainder and where the provisions of the Eminent Domain Law pertaining to compensation for loss of goodwill are satisfied. Goodwill consists of the benefits that accrue to a business as a result of its location, reputation for dependability, skill or quality, and any other circumstances resulting in probable retention of old or acquisition of new patronage.
- (d) As soon as possible after the amount of just compensation is established, the public entity shall offer to acquire the property for the full amount so established and shall provide the owner with a written statement of the basis for determination of just compensation. The statement shall include the following:
 - (1) A general statement of the public use for which the property is to be acquired.
 - (2) A description of the location and extent of the property to be taken, with sufficient detail for reasonable identification, and the interest to be acquired.
 - (3) An inventory identifying the buildings, structures, fixtures, and other improvements.
 - (4) A recital of the amount of the offer and a statement that such amount:
 - (A) Is the full amount believed by the public entity to be just compensation for the property taken;
 - (B) Is not less than the approved appraisal of the fair market value of the property as improved;
 - (C) Disregards any decrease or increase in the fair market value of the real property to be acquired prior to the date of valuation caused by the public improvement for which the property is to be acquired for such public

- improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant; and
- (D) Does not reflect any consideration of or allowance for any relocation assistance and payments or other benefits which the owner is entitled to receive under an agreement with the public entity, except for an amount to compensate the owner for that portion of loss of goodwill provided in accordance with Section 6100.
- (5) If the real property is a portion of a larger parcel, the statement shall include an apportionment of the total estimated just compensation for the partial acquisition between the value of the property being taken and the amount of damage, if any, to the remainder of the larger parcel from which such property is taken.
- (6) If the owner of the real property to be acquired is also the owner of a business conducted upon the property or the remainder, the statement shall include an indication of the amount of compensation for loss of goodwill.
- (e) At the initiation of negotiations (see subsection 6008(n)) a public entity shall provide written notification to the owner of a business conducted on the real property to be acquired or on the remainder, who is not also the owner of the real property, concerning his possible right to compensation for loss of goodwill. The public entity should include a copy of the pertinent provisions of the Eminent Domain Law (Code of Civil Procedure, Section 1230.010 et seq.).
- (f) (1) If after receiving the public entity's offer the owner requests additional information regarding the determination of just compensation, the public entity shall provide the following information to the extent that the determination of just compensation is based thereon:
- (A) The date of valuation used.
 - (B) The highest and best use of the property.
 - (C) The applicable zoning.
 - (D) Identification of some of the sales, contracts to sell and purchase, and leases supporting the determination of value.
 - (E) If the property is a portion of a larger parcel, a description of the larger parcel, with sufficient detail for reasonable identification.
- (2) With respect to each sale, contract, or lease provided in accordance with (1)(D) above, the following data should be provided:
- (A) The names and business or residence addresses, if known, of the parties to the transaction.
 - (B) The location of the property subject to the transaction.
 - (C) The date of transaction.
 - (D) The price and other significant terms and circumstances of the transaction, if known. In lieu of stating the other terms and circumstances, the public entity may, if the document is available for inspection, state the place where and the times when it is available for inspection.
- (3) The requirements of this subsection do not apply to requests made after an eminent domain proceeding is commenced.
- (g) Whenever a part of a parcel of property is to be acquired by a public entity for public use and the remainder, or a portion of the remainder, will be left in such size, shape or condition as to constitute an uneconomic remnant the public entity shall offer to acquire the remnant if the owner so desires. For the purposes of these Guidelines an "uneconomic remnant" shall be a parcel of real property in which the owner retains an interest after partial acquisition of his property and which has little or no utility or value to such owner. (Nothing in this subsection is intended to limit a public entity's authority to acquire real property.)

- (h) Nothing in this section shall be construed to deprive a tenant of the right to obtain payment for his property interest as otherwise provided by law.
- (i)
 - (1) Prior to commencement of an eminent domain proceeding the public entity shall make reasonable efforts to discuss with the owner its offer to purchase the owner's real property. The owner shall be given a reasonable opportunity to present material which he believes to be relevant as to the question of value and to suggest modification in the proposed terms and conditions of the purchase, and the public entity shall carefully consider the owner's presentation.
 - (2) Prior to commencement of an eminent domain proceeding, if the evidence presented by an owner or a material change in the character or condition of the property indicates the need for a new appraisal or if a significant delay has occurred since the determination of just compensation, the public entity shall have its appraisal updated. If a modification in the public entity's determination of just compensation is warranted, an appropriate price adjustment shall be made and the new amount determined to be just compensation shall be promptly offered in writing to the owner.
- (j)
 - (1) In no event shall the public entity either advance the time of condemnation, or defer negotiations or condemnation on the deposit of funds in court for the use of the owner, or take any other action coercive or misleading in nature, in order to compel or induce an agreement on the price to be paid for the property.
 - (2) If any interest in property is to be acquired by exercise of the power of eminent domain, the public entity shall promptly institute formal condemnation proceedings. No public entity shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of this real property.

6184. Notice of Decision to Appraise. The public entity shall provide the owner with written notice of its decision to appraise the real property as soon as possible after the decision to appraise has been reached. The notice shall state, as a minimum, that:

- (a) A specific area is being considered for a particular public use;
- (b) The owner's property has been determined to be located within the area; and
- (c) The owner's property, which shall be generally described, may be acquired in connection with the public use.

6186. Time of Offer. The public entity shall make its first written offer as soon as practicable following service of the Notice of Decision to Appraise. (See section 6184.)

6188. Notice of Land Acquisition Procedures.

- (a) At the time the public entity notifies an owner of its decision to appraise real property it shall furnish the owner a written explanation of its land acquisition procedures, describing in non-technical, understandable terms the public entity's acquisition procedures and the principal rights and options available to the owner.
- (b) The notice shall include the following:
 - (1) A description of the basic objective of the public entity's land acquisition program and a reference to the availability of the public entity's statement covering relocation benefits for which an owner-occupant may be eligible;
 - (2) A statement that the owner or his representative designated in writing shall be given the opportunity to accompany each appraiser during his inspection of the property.

- (3) A statement that if the acquisition of any part of real property would leave the owner with an uneconomic remnant as defined in subsection 6182(g) the public entity will offer to acquire the uneconomic remnant; if the owner so desires;
- (4) A statement that if the owner is not satisfied with the public entity's offer of just compensation he will be given a reasonable opportunity to present relevant material, which the public entity will carefully consider, and that if a voluntary agreement cannot be reached the public entity, as soon as possible, will either institute a formal condemnation proceeding against the property or abandon its intention to acquire the property, giving notice of the latter as provided in section 6190.
- (5) A statement that construction or development of a project shall be so scheduled that no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling as required by these Guidelines will be available) or to move his business or farm operation without at least 90 days written notice from the public entity of the date by which the move is required; and
- (6) A statement that, if arrangements are made to rent the property to an owner or his tenant for a short term or for a period subject to termination by the public entity on short notice, the rental will not exceed the lesser of the fair rental value of the property to short term occupier or the pro rata portion of the fair rental value for a typical rental period. If the owner or tenant is an occupant of a dwelling, the rental for the dwelling shall be within his financial means. (See subsection 6008(c).)

6190. Notice of Public Entity's Decision Not to Acquire. Whenever a public entity which has forwarded a Notice of Decision to Appraise or has made a firm offer subsequently decides not to acquire the property, the public entity shall serve a notice in writing on the owner, all persons occupying the property and all other persons potentially eligible for relocation payments and assistance. This notice shall state that the public entity has decided not to acquire the property. It shall be served not later than 10 days following the date of the public entity decision not to acquire.

6192. Incidental Expenses. If the real property is acquired by purchase, the public entity shall pay all reasonable expenses incident to transfer. Among the expenses requiring payment are: recording fees, transfer fees and similar expenses incident to the conveyance of real property, and the pro rata portion of charges for public service such as water, sewage and trash collection which are allowable to a period subsequent to the date of transfer of title to the public entity, or the effective date of possession of such property by the public entity, whichever is earlier. The public entity shall inform the owner that he may apply for a rebate of the pro rata portion of any real property taxes paid.

6194. Short Term Rental.

- (a) If the public permits an owner or tenant to occupy the real property acquired on a rental basis for a short-term or for a period subject to termination by the public entity on short notice, the amount of rent required shall not exceed the lesser of the fair rental value to a short-term occupier or the pro rata portion of the fair rental value for a typical rental period. If the owner or tenant is an occupant of a dwelling, the rental for the dwelling shall be within his financial means. (See subsection 6008(c).)
- (b) A posed- acquisition tenant who occupies real property acquired on a rental basis for a short term and who is informed that the property has been acquired for a public use shall be given not less than 30 days notice of termination of the tenancy.

- 6195. Public Information.** The purchase price and other consideration paid by the public entity is public information and shall be made available upon request.
- 6196. Service of Notice.** Service of all notices required by this article shall be made either by first class mail or by personal service upon the person to be notified.
- 6198. Nonpossessory Interest Exception.** The provisions of 6182(b), (c), (d)(4) and (f) and 6188 shall not apply to the acquisition of any easement, right-of-way, covenant or other nonpossessory interest in real property to be acquired for the construction, reconstruction, alteration, enlargement, maintenance, renewal, repair or replacement of sub-surface sewers, waterlines or appurtenance, drains, septic tanks, or storm water drains.

ATTACHMENT A

Minimum Contents of Informational Statement(s)

Item To Be Included	For Distribution To	
	Displaced Persons	Business Concerns and Others
1. General description of the nature and types of activities that will be undertaken, including an identification of areas which may involve displacement. A diagrammatic sketch of the project area should be attached	X	X
2. Statement that public action may result in displacement but that no one lawfully occupying property will be required to surrender possession without at least 90 days' written notice from the public entity and no one will be required to move until 90 days after the provision of information.	X	X
3. Assurance that families and individuals will not be required to move before reasonable offers of decent, safe, and sanitary and otherwise comparable housing within their financial means have been made, except for the causes set forth in the local agency's eviction policy (which shall be in accordance with section 6058.)	X	
4. General description of types of relocation payments available, including general eligibility criteria and a caution against premature moves that might result in loss of eligibility for a payment.	X	X
5. Identification of the agency's relocation program and a description of the relocation services and aids that will be available.	X	X
6. Encouragement to visit the agency's relocation office and cooperate with the staff. The address, telephone #, and hours of the relocation office should be specified.	X	X
7. Information on replacement housing, including: <ul style="list-style-type: none"> a. Brief description of what constitutes comparable replacement housing, including physical standards. b. Laymen's description of Federal fair housing law (Title VIII of Civil Rights Act of 1968), and applicable State and local fair housing laws, as well as rights under Title IV of the Civil Rights Act of 1964. c. Statement that the public entity (or its agent) will identify comparable replacement dwellings within the financial means of and otherwise available to displaced persons and will provide assistance to persons in obtaining housing of their choice, including assistance in the referral of complaints of discrimination to the appropriate Federal, State or local fair housing enforcement agency. d. Statement that persons may seek their own housing accommodations and urging them, if they do so, to notify the relocation office prior to making a commitment to purchase or occupy the property 	X	
8. Statement that the public entity will provide maximum assistance in locating relocation accommodations, including consultation with the Small Business Administration and other governmental agencies which might be of assistance.		X
9. Statement describing requirement for prior notification to the agency of the business concern's intention to move.		X
10. Summary of the local agency's eviction policy, which shall be in accordance with the provisions of section 6058.	X	X
11. Statement describing the agency's grievance procedure, its purpose, and how it may be used, which procedure shall be in accordance with the provisions of Article 5.	X	X

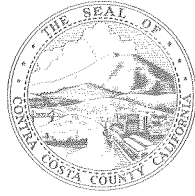
APPENDIX C

2008-09 Base Year Report for the Added Area

Contra Costa County

Office of
COUNTY AUDITOR-CONTROLLER

625 Court Street
Martinez, California 94553-1282
Telephone (925) 646-2181
Fax (925) 646-2649



Stephen J. Ybarra
Auditor-Controller
Elizabeth A. Verigin
Assistant Auditor-Controller

December 29, 2008

City of Hercules Redevelopment Agency
111 Civic Drive
Hercules, CA 94547

Ladies and Gentlemen:

Enclosed is our report on your proposed amendment to the existing redevelopment project identified as the Merged Dynamite and Project Area No.2 Redevelopment Project Areas.

Very truly yours,

STEPHEN J. YBARRA
Auditor-Controller

A handwritten signature in black ink, appearing to read "Robert Campbell", written over a white background.

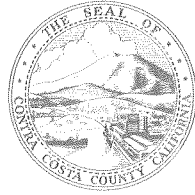
By: Robert Campbell
Chief Accountant

RC:vv
Enclosure
c:
County Administrator
County Library
County Assessor
County Public Works
County Flood Control
County Sheriff
County Water Agency
Rodeo Hercules Fire
CC Mosquito & Vector Control
West CC Hospital
East Bay MUD
BART
Bay Area Air Quality Management
East Bay Regional Park
City of Hercules
Co. Superintendent of Schools
West CC Unified
Co.Co. Community College
State Board of Equalization

Contra Costa County

Office of
COUNTY AUDITOR-CONTROLLER

625 Court Street
Martinez, California 94553-1282
Telephone (925) 646-2181
Fax (925) 646-2649



Stephen J. Ybarra
Auditor-Controller
Elizabeth A. Verigin
Assistant Auditor-Controller

December 29, 2008

TO: City of Hercules Redevelopment Agency
FROM: Stephen J. Ybarra, Auditor-Controller
By: Robert Campbell, Chief Accountant

A handwritten signature in blue ink, appearing to be "R Campbell", written over the printed name.

SUBJECT: Merged Dynamite and Project Area 2 Amendment

Based upon your notification that you have amended and restated your redevelopment plan for the above stated project, and in accordance with §33328 of the Health and Safety Code, we submit the following report.

- A. The base year (2008/09) assessed value of all taxable properties within the project area is \$0.
- B. The agencies that levy tax rates within the project area and the 2008/09 individual tax rates are as follows:

DISTRICT	DISTRICT RATE
Countywide (1% tax)	1.0000
Bart	0.0090*
East Bay Regional Park	0.0100
West CC Unified Bond 1998	0.0093*
West CC Unified Bond 2000	0.0365*
West CC Unified Bond 2002	0.0484*
West CC Unified Bond 2005	0.0288*
Community College 2002 Bond	0.0040*
Community College 2006 Bond	0.0026*

* Approved after 1/1/89 and not subject to RDA adjustment

- C. The sharing agencies' base year tax amounts as shown in column two (2) - illustrated in D, are approximations only, and are based on the secured, unsecured, and utility base year values.

D. The total estimated tax distribution amount to each agency inside and outside the project area, column three (3), is calculated according to the property tax revenue distribution formula specified in Chapter 282, Statutes of 1979 (AB 8) for the 1% countywide tax and further increased by tax levies for voter approved indebtedness (approved prior to 1/1/89) and allocations from the supplemental roll, railroad, rights-of-way, and unitary and operating non-unitary roll.

(1)	(2)	(3)
AGENCIES	BASE YEAR TAX DISTRIBUTION	TOTAL ESTIMATED TAX DISTRIBUTION
County General	0	198,121,991
County Library	0	21,405,210
CC Flood Control	0	2,714,130
County Water Agency	0	516,674
Rodeo Hercules Fire	0	3,017,778
CC Mosquito & Vector Control	0	4,241,743
West CC Hospital	0	3,250,605
East Bay MUD	0	11,981,419
BART	0	9,780,590
Bay Area Air Management	0	2,850,882
East Bay Regional Park	0	42,707,263
City of Hercules	0	1,193,244
Co Supt of Schools	0	24,808,757
West Co Co Unified	0	65,740,111
Co Co Community College	0	71,659,956
Educ Revenue Augmentation Fund	0	218,384,348

E. The estimated first year taxes available to the redevelopment agency are not available.

F. The assessed valuation for the project area for the preceding year are not currently available, but can be provided upon request.

G. Per §33328(f) of the Health and Safety Code, prior to the publication of notice of the legislative body's public hearing on the plan, the redevelopment agency shall consult with each taxing agency which levies taxes, or for which taxes are levied, on property in the project area with respect to the plan and to the allocation of taxes pursuant to §33670.



STATE BOARD OF EQUALIZATION
PROPERTY AND SPECIAL TAXES DEPARTMENT
450 N STREET, MIC: 59, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0059
TELEPHONE (916) 322-7189
FAX (916) 327-4251
www.boe.ca.gov

BETTY T. YEE
First District, San Francisco

BILL LEONARD
Second District,
Ontario/Sacramento

MICHELLE STEEL
Third District, Rolling Hills Estates

JUDY CHU, Ph.D.
Fourth District, Los Angeles

JOHN CHIANG
State Controller

RAMON J. HIRSIG
Executive Director

November 4, 2008

Mr. Bobby Romero, Accountant III
Contra Costa County Office of the Auditor-Controller
Finance Building, Room 203
625 Court St.
Martinez, CA 94553-1282

Dear Mr. Romero:

Pursuant to Section 33328 et seq. of the Health and Safety Code, the 2008/2009 non-operating and non unitary assessed values of state-assessed property located within the boundaries of the proposed Merged Dynamite and Project Area No. 2 Redevelopment Amendment within the City of Hercules are zero.

These values will continue to be valid if the project boundaries remain fixed. The ordinance adopting and approving the redevelopment plan for this project becomes effective prior to August 20, 2009.

If you have any questions regarding this matter, please contact Mr. Errol F. Tankiamco at (916) 322-4768.

Sincerely,

A handwritten signature in black ink that reads "Ralph L. Davis".

Ralph L. Davis, Research Manager
Tax Area Services Section

RLD:eft

cc: Mr. Nelson Oliva, Executive Director