

Merger and Amendment to the Redevelopment Plans for the  
Dynamite Redevelopment Project Area and Project Area No. 2

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# **Amended and Restated Redevelopment Plan**

March 23, 2005

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## SECTION I. (100) INTRODUCTION

### A. (101) General

This is the Amended and Restated Redevelopment Plan for the Merger and Amendment to the Redevelopment Plans for the Dynamite Redevelopment Project Area and Project Area No. 2 (“Plan”), located in the City of Hercules, County of Contra Costa, State of California. It consists of the text (Sections 100 through 1100), the Project Area Map of the merged Project Area including the Dynamite Redevelopment Project Area and Project Area No. 2 (Exhibit A), the legal description of the Project Area boundaries (Exhibits B-1 and B-2), a list of potential public improvements (Exhibits C-1 and C-2), and a diagram of permitted land uses (Exhibits D-1 and D-2).

This Plan has been prepared by the Hercules Redevelopment Agency (“Agency”) pursuant to the California Community Redevelopment Law (Health and Safety Code Section 33000, *et seq.*), the California Constitution and all applicable laws and ordinances. It does not present a specific plan for the redevelopment, rehabilitation and revitalization of any area within the Project Area; instead, it establishes a process and framework for implementation.

This Plan is based upon a Preliminary Plan formulated and adopted by the Agency by Resolution No. 00-050, adopted on December 5, 2000.

This Plan amends and supersedes the existing Redevelopment Plans for the Dynamite Redevelopment Project Area and Project Area No. 2 (“Project”). The Dynamite Redevelopment Project Area was originally adopted on November 30, 1983 by Ordinance No. 181, and was amended on two separate occasions: April 26, 1994 by Ordinance No. 325, and on February 27, 1996 by Ordinance No. 333. Project Area No. 2 was originally adopted on April 13, 1999 by Ordinance No. 351. This Plan merges the Dynamite Redevelopment Project Area and Project Area No. 2 (the “Merged Project Area”), and extends the effectiveness of the Redevelopment Plan, and thereby the time to collect tax increment, for the Dynamite Redevelopment Project Area.

## SECTION II. (200) GENERAL DEFINITIONS

The following definitions will be used generally in the context of this Plan unless otherwise specified herein:

- A. “Agency” means the Hercules Redevelopment Agency.
- B. “Annual Work Program” means that portion of the Agency's annual budget that sets forth programs and goals to be accomplished by the Agency during the fiscal year.

- C. “City” means the City of Hercules, California.
- D. “City Council” means the legislative body of the City.
- E. “County” means the County of Contra Costa, California.
- F. “Disposition and Development Agreement” means an agreement between a developer and the Agency that sets forth terms and conditions for improvement and redevelopment.
- G. “General Plan” means the General Plan of the City, the comprehensive and long-term general plan for the physical development of the City, as it exists today or is hereafter amended.
- H. “Legal Description” means the metes and bounds legal descriptions of the Project Area attached hereto as Exhibits B-1 and B-2.
- I. “Map” means the map of the Project Area attached hereto as Exhibit A.
- J. “Method of Relocation” means the methods or plans adopted by the Agency pursuant to Sections 33352(f) and 33411 of the Redevelopment Law for the relocation of families, persons and businesses to be temporarily or permanently displaced by actions of the Agency.
- K. “Ordinance” means City Council Ordinance No. 363 adopted on February 13, 2001 adopting this Plan.
- L. “Owner” shall mean and include the owner of real or personal property located in the Project Area or owner of business located in the Project Area.
- M. “Owner Participation Agreement” means an agreement between the Agency and an Owner which sets forth terms and conditions for use of property, and/or its improvement and/or its redevelopment as to a specific property.
- N. “Person” means an individual(s), or any public or private entities.
- O. “Plan” means the Redevelopment Plan for the Merged and Amended Redevelopment Plan for the Dynamite Redevelopment Project Area and Project Area 2.
- P. “Project” means the Merged Project incorporating the Dynamite Redevelopment Project Area and Project Area No. 2.

- Q. "Project Area" means the Merged Project Area incorporating the Dynamite Redevelopment Project Area and Project Area No. 2, which is the territory this Plan applies to, as shown on Exhibit A.
- R. "Redevelopment Law" means the California Community Redevelopment Law (Health and Safety Code, Sections 33000, et seq.) as it now exists or may be hereafter amended.
- S. "State" means the State of California.
- T. "State Law" means an enactment of State of California, and includes such regulations as have the force of law.
- U. "Zoning Ordinance" means the Zoning Ordinance of the City, as it exists today or is hereafter amended.
- V. "2004 Amendment to the Redevelopment Plan" means those amendments to the Redevelopment Plan adopted by Ordinance No. 403.

### **SECTION III. (300) PROJECT AREA BOUNDARIES**

The boundaries of the Project Area are illustrated on the map attached hereto and incorporated herein as Exhibit A. The legal description of the boundaries of the Project Area is as described in Exhibits B-1 and B-2 attached hereto and incorporated herein.

### **SECTION IV. (400) REDEVELOPMENT PLAN GOALS**

Implementation of this Plan is intended to achieve the following goals:

- The elimination of blight and environmental deficiencies in the Project Area.
- The assembly of land into parcels suitable for modern, integrated development with improved pedestrian and vehicular circulation in the Project Area.
- The replanning, redesign, and development of undeveloped areas which are stagnant or improperly utilized.
- The strengthening of retail and other commercial functions in the Project Area.
- 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.

- The strengthening and diversification of housing opportunities at all economic levels through the development of housing of high aesthetic and environmental quality.
- The provision of adequate land for parking and open spaces.
- The establishment and implementation of performance criteria to assure high site design standards and environmental quality and other design elements which provide unity and integrity to the entire Project.
- The expansion and/or improvement of the community's supply of low- and moderate-income housing.
- The preservation and restoration of historic structures.

## **SECTION V. (500) REDEVELOPMENT ACTIONS**

### **A. (501) General**

The Agency proposes to alleviate and prevent the spread of blight and deterioration in the Project Area by:

1. The acquisition, installation, construction, reconstruction, redesign, or reuse of streets, utilities, curbs, gutters, sidewalks, traffic control devices, flood control facilities, and other public improvements.
2. The rehabilitation, remodeling, demolition, or removal of buildings, structures, and improvements by present owners, their successors and the Agency.
3. The rehabilitation, development, preservation, or construction of affordable housing in compliance with State Law.
4. 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.
5. Providing relocation assistance to displaced residential and nonresidential occupants in accordance with applicable State Law.
6. The development or redevelopment of land by private enterprise or public agencies for purposes and uses consistent with the objectives of this Plan.
7. 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.

8. The combining of parcels, properties, site preparation, and construction of necessary off-site improvements for development and construction of residential/commercial/industrial facilities.
9. Providing for open space.
10. Managing of any property acquired by the Agency.
11. 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.
12. 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.
13. 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.
14. The closure or vacation of certain streets and the dedication of other areas for public purposes.
15. Providing replacement housing, if any is required.
16. Applying for, receiving and utilizing grants and loans from federal or state governments or any other source.

To accomplish these actions and to implement this Plan, the Agency is authorized to use the powers provided in this Plan, and the powers now or hereafter permitted by the Redevelopment Law and any other State law.

B. (502) Property Acquisition

1. (503) Acquisition of Real Property

The Agency may acquire real property by any means authorized by law, including by gift, grant, exchange, purchase, cooperative negotiations, lease or any other means authorized by law including eminent domain.

Except as otherwise provided by law, no eminent domain proceeding to acquire property within the Project Area shall be commenced after twelve (12) years following the date of adoption of the ordinances establishing the Dynamite



Redevelopment Project Area and Project Area No.2. Such time limitations may be extended only by amendment of this Plan.

To the extent required by law, the Agency shall not acquire real property on which an existing building is to be continued on its present site and in its present form and use without the consent of the owner, unless: (1) such building requires structural alteration, improvement, modernization or rehabilitation; or (2) the site or lot on which the building is situated requires modification in size, shape or use; or (3) it is necessary to impose upon such property any of the standards, restrictions and controls of this Plan and the owner fails or refuses to participate in the Plan pursuant to Sections 505 to 509 of this Plan and applicable provisions of the Redevelopment Law.

2. (504) Acquisition of Personal Property

Where necessary in the implementation of this Plan, the Agency is authorized to acquire personal property by any lawful means.

C. (505) Participation by Owners and Persons Engaged in Business

1. (506) Owner Participation

This Plan provides for opportunities for participation in the redevelopment of property in the Project Area by the owners of all or part of such property if the owners agree to participate in the redevelopment in conformity with this Plan.

Opportunities to participate in the redevelopment of property in the Project Area may include without limitation the rehabilitation of property or structures; the retention of improvements; the development of all or a portion of the participant's property; the acquisition of adjacent or other properties from the Agency; purchasing or leasing properties in the Project Area; participating with developers in the improvement of all or a portion of a participant's properties; selling property to the Agency and purchasing other property; or other suitable means consistent with objectives and proposals of this Plan and with the Agency's rules governing owner participation and re-entry.

In addition to opportunities for participation by individual persons and firms, participation, to the extent it is feasible, shall be available for two or more persons, firms or institutions, to join together in partnerships, corporations, or other joint entities.

The Agency desires participation in redevelopment activities by as many owners and business tenants as possible. However, participation opportunities shall necessarily be subject to and limited by such factors as the provision or expansion of public improvements and/or public utilities facilities; elimination and changing of land uses; realignment of streets; the ability of owners and business tenants to

finance acquisition and development activities in accordance with this Plan; development experience, where applicable, availability of franchises, whether the proposed activities conform to and further the goals and objectives of this Plan; and any change in the total number of individual parcels in the Project Area.

2. (507) Reentry Preferences for Persons Engaged in Business in the Project Area

The Agency shall extend reasonable preferences to persons who are engaged in business in the Project Area to relocate and reenter in business in the redeveloped area, if they otherwise meet the requirements prescribed by this Plan and the Agency's rules governing owner participation and re-entry.

3. (508) Owner Participation Agreements

Under an Owner Participation Agreement, the participant shall agree to rehabilitate, develop, or use the property in conformance with this Plan and be subject to the provisions hereof. In the Owner Participation Agreement, participants who retain real property shall be required to join in the recordation of such documents as are necessary to make the provisions of this Plan applicable to their properties.

Owner Participation Agreement shall include appropriate remedies such as the ability of the Agency to declare the Agreement terminated and acquire the real property or any interest therein, and sell or lease such real property or interest therein for rehabilitation or development in accordance with this Plan in the event a participant breaches the terms of such Owner Participation Agreement.

If conflicts develop between the desires of participants for particular sites or land uses, the Agency is authorized to establish reasonable priorities and preferences among the owners and tenants.

Where the Agency determines that a proposal for participation is not feasible, is not in the best interests of the Agency, or City or that redevelopment can best be accomplished without affording a participant an opportunity to execute an Owner Participation Agreement, the Agency shall not be required to execute such an agreement.

4. (509) Conforming Owners

The Agency may, at its sole and absolute discretion, determine that certain real property within the Project Area presently meets the requirements of this Plan, and the owner of such property will be permitted to remain as a conforming owner without a participation agreement with the Agency, provided such owner continues to operate, use and maintain the real property within the requirements of this Plan. However, a conforming owner shall be required by the Agency to enter into a participation agreement with the Agency in the event that such owner

desires to: (a) construct any additional improvements or substantially alter or modify existing structures on any of the real property described above as conforming; or (b) acquire additional property within the Project Area.

D. (510) Implementing Rules

The provisions of Sections 505-508 of this Plan shall be implemented according to the rules adopted by the Agency prior to the approval of the ordinance adopting this Plan, which may be amended from time to time by the Agency. Such rules allow for Owner Participation Agreements with the Agency.

E. (511) Cooperation with Public Bodies

Certain public bodies are authorized by State law to aid and cooperate, with or without consideration, in the planning and implementation of activities authorized by this Plan. The Agency shall seek the aid and cooperation of such public bodies and shall attempt to coordinate the implementation of this Plan with the activities of such public bodies in order to accomplish the purposes of redevelopment and to achieve the highest public good.

Property of a public body shall not be acquired without its consent in accordance with State Law. The Agency shall seek the cooperation of all public bodies which own or intend to acquire property in the Project Area. All plans for development of property in the Project Area by a public body shall be subject to Agency approval.

The Agency may impose on all public bodies the planning and design controls contained in and authorized by this Plan to ensure that present uses and any future development by public bodies will conform to the requirements of this Plan. The Agency is authorized, to the extent permissible by law, to financially (and otherwise) assist public bodies in the cost of public land, buildings, facilities, structures or other improvements (within or outside the Project Area) where such land, buildings, facilities, structures, or other improvements are of benefit to the Project Area.

F. (512) Property Management

During such time as property, if any, in the Project Area is owned by the Agency, such property shall be under the management and control of the Agency. Such properties may be rented or leased by the Agency pending their disposition.

G. (513) Payments to Taxing Agencies

The Agency may pay, but is not required to pay, in any year during which it owns property in the Project Area directly to any City, County or district, including, but not limited to, a school district, or other public corporation for whose benefit a tax would have been levied upon such property had it not been tax exempt, an amount of money in lieu of taxes.

In addition, to the extent required by State Law, the Agency shall remit payments to the affected taxing agencies in a manner consistent with Section 33607.5, Section 33676(b), and any other pertinent and applicable sections of the Redevelopment Law.

All such amounts shall be calculated after the amount required to be deposited in the Low and Moderate Income Housing Fund has been deducted from the total amount of tax increment funds received by the Agency in the applicable fiscal year. Such payments shall be reduced in accordance with the provisions of Section 33607.5 of the Redevelopment Law or any other applicable statute. Such payments shall be the exclusive payments that are required to be made by the Agency to affected taxing entities for the duration of this Plan. Such payments may be subordinated to loans, bonds, or other Agency indebtedness as provided by the Redevelopment Law.

H. (514) Relocation of Persons Displaced by a Project

1. (515) Relocation Program

In accordance with the provisions of the California Relocation Assistance Law (Government Code Section 7260, et seq.) (“Relocation Assistance Act”), the guidelines adopted and promulgated by the California Department of Housing and Community Development (“Relocation Guidelines”) and the Method of Relocation adopted by the Agency, the Agency shall provide relocation benefits and assistance to all persons (including families, business concerns, and others) displaced by Agency acquisition of property in the Project Area as may be required by law. Such relocation assistance shall be provided in the manner required by the Method of Relocation. The Agency shall make a reasonable effort to relocate displaced individuals, families, and commercial and professional establishments within the Project Area. The Agency is also authorized to provide relocation for displaced persons outside the Project Area.

2. (516) Relocation Benefits and Assistance

The Agency shall provide all relocation benefits required by law and in conformance with the Method of Relocation, Relocation Guidelines, Relocation Assistance Act, the Redevelopment Law, and any other applicable rules and regulations.

I. (517) Demolition, Clearance, Public Improvements, Site Preparation and Removal of Hazardous Waste

1. (518) Demolition and Clearance

The Agency is authorized, for property acquired by the Agency or pursuant to an agreement with the owner of property, to demolish, clear or move buildings,

structures, or other improvements from any real property as necessary to carry out the purposes of this Plan.

2. (519) Public Improvements

To the greatest extent permitted by law, the Agency is authorized to install and construct or to cause to be installed and constructed the public improvements and public utilities (within or outside the Project Area) necessary to carry out the purposes of this Plan. Specifically, the Agency may pay for, install, or construct the buildings, facilities, structures, and other improvements identified in Exhibits C-1 and C-2, attached hereto, and may acquire or pay for land required therefor. Additionally, the Agency is authorized to install and construct, or to cause to be installed and constructed, within or without the Project Area, for itself or for any public body or entity for the benefit of the Project Area, public improvements, and public facilities, including, but not limited to: over or underpasses; bridges; streets; curbs; gutters; sidewalks; street lights; sewers; storm drains; traffic signals; electrical distribution systems and natural gas distribution systems; cable TV and fiber optic communication systems; water distribution systems; parks; plazas; playgrounds; motor vehicle parking facilities; landscaped areas; schools; civic; cultural; recreational facilities; and pedestrian improvements. The public facilities and infrastructure improvement projects that may be undertaken by the Agency pursuant to this Plan are identified in the General Plan, and capital improvement program, incorporated herein by reference.

The Agency, as it deems necessary to carry out the Plan and subject to the consent of the City Council, as may be required by the Redevelopment Law, may pay all or part of the value of the land for and the cost of the installation and construction of any building, facility, structure or other improvement which is publicly owned either within or outside the Project Area, upon both the Agency and the City Council making the applicable determinations required pursuant to the Redevelopment Law.

When the value of such land or the cost of the installation and construction of such building, facility, structure or other improvement, or both, has been, or will be, paid or provided for initially by the City or other public corporation, the Agency may enter into a contract with the City or other public corporation under which it agrees to reimburse the City or other public corporation for all or part of the value of such land or all or part of the cost of such building, facility, structure or other improvements, or both, by periodic payments over a period of years. Any obligation of the Agency under such contract shall constitute an indebtedness of the Agency for the purposes of carrying out this Plan, and may be made payable out of the taxes levied in the Project Area and allocated to the Agency under Redevelopment Law Section 33670(b) or out of any other available funds.

3. (520) Preparation of Building Sites

Any real property owned or acquired by the Agency may be developed as a building site. In connection with such development it may cause, provide, or undertake or make provisions with other agencies for the installation, or construction of streets, utilities, parks, playgrounds and other public improvements necessary for carrying out this Plan.

4. (521) Removal of Hazardous Waste

To the extent legally allowable, the Agency may, in its sole discretion, take any actions which the Agency determines are necessary and which are consistent with other State and federal laws, to remedy or remove a release of hazardous substances on, under, or from property within the Project Area.

J. (522) Rehabilitation, Moving of Structures by the Agency and Seismic Repairs

1. (523) Rehabilitation and Conservation

The Agency is authorized to rehabilitate and conserve, or to cause to be rehabilitated and conserved, any property, building or structure owned by the Agency. The Agency is also authorized to advise, encourage, and assist (through a loan program or otherwise) in the rehabilitation and conservation of property, buildings or structures in the Project Area not owned by the Agency to the extent permitted by the Redevelopment Law as it exists now or may be hereafter amended. The Agency is authorized to acquire, restore, rehabilitate, move and conserve buildings of historic or architectural significance.

The Agency is authorized to conduct a program of assistance and enforcement to encourage owners of property within the Project Area to upgrade and maintain their property consistent with this Plan and such standards as may be developed for the Project Area.

The extent of rehabilitation in the Project Area shall be subject to the discretion of the Agency based upon such objective factors as:

- a. Compatibility of rehabilitation with land uses as provided for in this Plan.
- b. Economic feasibility of proposed rehabilitation and conservation activity.
- c. Structural feasibility of proposed rehabilitation and conservational activity.
- d. The undertaking of rehabilitation and conservation activities in an expeditious manner and in conformance

with the requirements of this Plan and such property rehabilitation standards as may be adopted by the Agency.

- e. The need for expansion of public improvements, facilities and utilities.
- f. The assembly and development of properties in accordance with this Plan.

The Agency may adopt property rehabilitation standards for the rehabilitation of properties in the Project Area.

2. (524) Moving of Structures

As necessary in carrying out this Plan, the Agency is authorized to move, or to cause to be moved, any building structures or other improvements from any real property acquired which can be rehabilitated to a location within or outside the Project Area.

3. (525) Seismic Repairs

For any project undertaken by the Agency within the Project Area for building rehabilitation or alteration in construction, the Agency may, by following all applicable procedures which are consistent with local, State, and federal law, take those actions which the Agency determines are necessary to provide for seismic retrofits.

K. (526) Property Disposition and Development

1. (527) Real Property Disposition and Development

a. (528) General

For the purposes of this Plan, the Agency is authorized to sell, lease, exchange, subdivide, transfer, assign, pledge, encumber by mortgage or deed of trust, or otherwise dispose of any interest in real property. To the extent permitted by law, the Agency is authorized to dispose of real property by negotiated lease or sale without public bidding. Except as otherwise permitted by law, before any interest in property of the Agency acquired in whole or in part, directly or indirectly, with tax increment moneys is sold or leased for development pursuant to this Plan, such sale or lease shall be first approved by the City Council after public hearing, together with such findings as may then be required by State law.

The real property acquired by the Agency in the Project Area, except property conveyed to it by the City, shall be sold or leased to public or

private persons or entities for improvement and use of the property in conformance with this Plan. Real property may be conveyed by the Agency to the City, and where beneficial to the Project Area, to any other public body without charge or for an amount less than fair market value.

All purchasers or lessees of property from the Agency shall be obligated to use the property for the purposes designated in this Plan, to begin and complete improvement of such property within a period of time which the Agency fixes as reasonable, and to comply with other conditions which the Agency deems necessary to carry out the purposes of this Plan.

During the period of redevelopment in the Project Area, the Agency shall ensure that all provisions of this Plan, and other documents formulated pursuant to this Plan, are being observed, and that development of the Project Area is proceeding in accordance with applicable development documents and time schedules.

All development, whether public or private, must conform to this Plan and all applicable federal, State, and local laws, including without limitation the General Plan and Zoning Ordinance, and all other state and local building codes, guidelines, or specific plans as they now exist or are hereafter amended. Such development must receive the approval of all appropriate public agencies.

b. (529) Purchase and Development Documents

To provide adequate safeguards to ensure that the provisions of this Plan will be carried out and to prevent the recurrence of blight, all real property sold, leased, or conveyed by the Agency, as well as all property subject to Owner Participation Agreements, shall be made subject to the provisions of this Plan by leases, deeds, contracts, agreements, declarations of restrictions, provisions of the General Plan and Zoning Ordinance, and all other state and local building codes, guidelines, or specific plans as they now exist or are hereafter amended, conditional use permits, or other means. Where appropriate, as determined by the Agency, such documents or portions thereof shall be recorded in the office of the Recorder of the County.

Leases, deeds, contracts, agreements, and declarations of restrictions of the Agency may contain restrictions, covenants, covenants running with the land, rights of reverter, conditions subsequent, equitable servitudes, or any other provisions necessary to carry out this Plan.

The Agency shall reserve such powers and controls in Disposition and Development Agreements or similar agreements as may be necessary to



prevent transfer, retention, or use of property for speculative purposes and to ensure that redevelopment is carried out pursuant to this Plan.

The Agency shall obligate lessees and purchasers of real property acquired in redevelopment projects and owners of property improved as part of a redevelopment project to refrain from discrimination or segregation based upon race, color, creed, religion, national origin, ancestry, sex, or marital status in the sale, lease, sublease, transfer, use occupancy, tenure or enjoyment of property in the Project Area. All property sold, leased, conveyed, or subject to Disposition and Development Agreements shall be expressly subject by appropriate documents to the restriction that all deeds, leases, or contracts for the sale, lease, sublease or other transfer of land in the Project Area shall contain such nondiscrimination and non-segregation clauses as are required by law.

2. (530) Personal Property Disposition

For the purposes of this Plan, the Agency is authorized to sell, lease, exchange, subdivide, transfer, assign, pledge, encumber, or otherwise dispose of personal property.

3. (531) Prevention of Discrimination

a. Redevelopment

The redeveloper shall comply with all state and local laws, in effect from time to time, prohibiting discrimination or segregation by reason of race, color, creed, religion, sex, marital status, national origin or ancestry, in the sale, lease or occupancy of the property.

Pursuant to the California Health and Safety Code (Sections 33337 and 33435-33536), contracts entered into by the Agency relating to the sale, transfer or leasing of land, or any interest therein acquired by the Agency within any redevelopment area or project, shall comply with the provisions of said sections in substantially the form set forth therein. All such contracts shall further provide that the provisions of said section shall be binding upon and shall obligate the contracting party or parties and all other transferees under the instrument.

b. Contracts

All deeds, leases, or contracts for the sale, lease, sublease or other transfer of any land in the Project Area shall contain the following nondiscrimination clauses as prescribed by California Health and Safety Code, Section 33436: In deeds the following language shall appear:

“The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against, or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the premises herein conveyed, nor shall the grantee or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the premises herein conveyed. The foregoing covenants shall run with the land.”

In leases, the following language shall appear:

“The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

“That there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment, of the premises herein leased, nor shall the lessee himself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy of tenants, subleases, subtenants, or vendees in the premises herein leased.”

L. (532) Provision for Low and Moderate Income Housing

The Agency shall comply with all of the low and moderate income housing requirements of the Redevelopment Law which are applicable to this Plan, including applicable expenditure, replacement, and inclusionary housing requirements, and in connection therewith, the Agency shall have all of the powers and authorization to act as may, from time to time, be provided by the Redevelopment Law and other applicable provisions of law.

**SECTION VI. (600) USES PERMITTED IN THE PROJECT AREA**

A. (601) Map and Uses Permitted

The Map attached hereto as Exhibit A and incorporated herein illustrates the location of the Project Area boundaries. The land uses permitted by this Plan shall be those permitted by the General Plan and Zoning Ordinance, and all other state and local building codes, guidelines, or specific plans as they now exist or are hereafter amended. A diagram of the uses currently permitted by the General Plan is contained in Exhibits D-1 and D-2. It is further the intention of this Redevelopment Plan that, with respect to commercial uses within that portion of the Project Area east of Interstate Route 80, redevelopment shall emphasize high quality retail and commercial uses consistent with the goals and objectives of this Redevelopment Plan and the City's General Plan to strengthen the economic base of the Project Area and develop sufficient employment and commercial tax generating uses to maintain a positive city government fiscal condition.

B. (602) Public Uses

1. (603) Public Street Layout, Rights-of-Way and Easements

The public street system and street layout for the Project Area is illustrated on the Map identified as Exhibit A. The street system in the Project Area shall be developed in accordance with the General Plan and Zoning Ordinance, and all other state and local building codes, guidelines, or specific plans as they now exist or are hereafter amended.

Certain streets and rights-of-way may be widened, altered, abandoned, vacated, or closed by the City as necessary for proper development of the Project Area. Additional easements may be created by the Agency and City in the Project Area as needed for proper development and circulation.

The public rights-of-way shall be used for vehicular, bicycle and/or pedestrian traffic as well as for public improvements, public and private utilities, and activities typically found in public rights-of-way. In addition, all necessary easements for public uses, public facilities, and public utilities may be retained or created.

2. (604) Other Public and Open Space Uses

Both within and, where appropriate, outside of the Project Area, the Agency may take actions to establish, or enlarge public, institutional, or non-profit uses, including, but not limited to, schools, community centers, auditorium and civic center facilities, criminal justice facilities, park and recreational facilities, parking facilities, transit facilities, libraries, hospitals, educational, fraternal, philanthropic and charitable institutions or other similar associations or organizations. All such uses shall be deemed to conform to the provisions of this Plan provided that such uses conform with all other applicable laws and ordinances and that such uses are approved by the City. The Agency may impose such other reasonable restrictions as are necessary to protect development and uses in the Project Area.

C. (605) Nonconforming Uses

The Agency is authorized but not required to permit an existing use to remain in an existing building in good condition if the use does not conform to the provisions of this Plan, provided that such use is generally compatible with existing and proposed developments and uses in the Project Area.

The Agency may take actions to, but is not required to, authorize additions, alterations, repairs or other improvements in the Project Area for buildings which do not conform to the provisions of this Plan where, in the determination of the Agency, such improvements would be compatible with surrounding Project Area uses and proposed development.

D. (606) Interim Uses

Pending the ultimate development of land by developers and participants, the Agency is authorized to use or permit the use of any land in the Project Area for interim uses not in conformity with the uses permitted in this Plan. Such interim use, however, shall conform to General Plan and Zoning Ordinance, and all other state and local building codes, guidelines, or specific plans as they now exist or are hereafter amended.

E. (607) General Controls and Limitations

All real property in the Project Area is hereby made subject to the controls and requirements of this Plan. No real property shall be developed, redeveloped, rehabilitated, or otherwise changed after the date of the adoption of this Plan except in conformance with the goals and provisions of this Plan and the regulations and requirements of the General Plan and Zoning Ordinance, and all other state and local building codes, guidelines, or specific plans as they now exist or are hereafter amended. The land use controls of this Plan shall apply for the periods set forth in Section 1000 below. The type, size, height, number and use of buildings within the Project Area will be controlled by the General Plan and applicable Zoning Ordinance, and all other state and local building codes, guidelines, or specific plans as they now exist or are hereafter amended.

1. (608) New Construction

All construction in the Project Area shall comply with all applicable State and local laws in effect from time to time. In addition to the City land use regulations and requirements in the Project Area, additional specific performance and development standards may be adopted by the Agency to control and direct improvement activities in the Project Area.

2. (609) Rehabilitation

Any existing structure within the Project Area which the Agency enters into an agreement for retention and rehabilitation shall be repaired, altered, reconstructed,

or rehabilitated in accordance with the applicable law and in such a manner that it will meet the following requirements: be safe and sound in all physical respects, be attractive in appearance and not detrimental to the surrounding uses.

3. (610) Number of Dwelling Units

The total number of dwelling units in the Project Area shall be regulated by the General Plan and Zoning Ordinance.

4. (611) Open Space and Landscaping

The approximate amount of open space to be provided in the Project Area is the total of all areas so designated in the General Plan and Zoning Ordinance, and all other state and local building codes, guidelines, or specific plans as they now exist or are hereafter amended, and those areas in the public rights-of-way or provided through site coverage limitations on new development as established by the City and this Plan. Landscaping shall be developed in the Project Area to ensure optimum use of living plant material in conformance with the standards of the City.

5. (612) Limitations on Type, Size and Height of Buildings

The limits on building intensity, type, size and height, shall be established in accordance with the provisions of the General Plan and Zoning Ordinance, and all other state and local building codes, guidelines, or specific plans as they now exist or are hereafter amended.

6. (613) Signs

All signs shall conform to the requirements of the City. Design of all proposed new signs shall be subject to the review of the City and the procedures of this Plan.

7. (614) Utilities

The Agency, in conformity with municipal code, and City policies, shall require that all utilities be placed underground whenever physically possible and economically feasible on projects funded in whole or in part by the Agency or subject to a Disposition and Development Agreement or an Owner Participation Agreement.

8. (615) Subdivision of Parcels

No parcels in the Project Area, including any parcel retained by a participant, shall be consolidated, subdivided or re-subdivided without the approval of the City.

9. (616) Incompatible Uses

No use or structure which by reason of appearance, traffic, smoke, glare, noise, odor or similar factors would be incompatible with the surrounding areas or structures shall be permitted in any part of the Project Area.

10. (617) Variations

The Agency is authorized to permit variations from the limits, restrictions and controls established by this Plan. In order to permit any such variation, the Agency must determine all of the following:

- a. The application of certain provisions of this Plan would result in practical difficulties or unnecessary hardships inconsistent with the general purposes and intent of this Plan.
- b. There are exceptional circumstances or conditions applicable to the property or to the intended development of the property which do not apply generally to other properties having the same standards, restrictions, and controls.
- c. Permitting a variation will not be materially detrimental to the public welfare or injurious to property or improvements in the area.
- d. Permitting a variation will not be contrary to the objectives of this Plan.

No such variation shall be granted which permits other than a minor departure from the provisions of this Plan. In permitting any such variation, the Agency shall impose such conditions as are necessary to protect the public health, safety, or welfare, and to assure compliance with the purposes of this Plan.

F. (618) Design for Development

Within the limits, restrictions, and controls established in this Plan, and subject to the provisions of Sections 601 and 607 herein, the Agency is authorized to establish heights of buildings, land coverage, setback requirements, design criteria, traffic circulation, traffic access, and other development and design controls necessary for proper development of both private and public areas within the Project Area. Criteria and controls more restrictive than that allowed by the General Plan and Zoning Ordinance shall not be imposed unless an appropriate level of assistance is provided by the Agency; there shall be a correlation between the higher level of design and the level of Agency assistance.

No new improvement shall be constructed, and no existing improvement shall be substantially modified, altered, repaired, or rehabilitated except in accordance with this Plan and any such controls approved by the Agency. In the case of property which is the subject of a Disposition and Development Agreement/Development Agreement or an Owner Participation Agreement with the Agency, such property shall be developed in accordance with the provisions of such Agreement. One of the objectives of this Plan is to create an attractive and pleasant environment in the Project Area. Therefore, such plans shall give consideration to good design, open space and other amenities to enhance the aesthetic quality of the Project Area. The Agency shall not approve any plans that do not comply with this Plan except as permitted by Section 616 of this Plan.

G. (619) Development Plans and Building Permits

All development plans (whether public or private) shall be subject to Agency approval and architectural review procedures. All development in the Project Area must conform to City design review standards.

Any building permit that is issued for the rehabilitation or construction of any new building or any addition, construction, moving, conversion or alteration to an existing building in the Project Area from the date of adoption of this Plan must be in conformance with the provisions of this Plan, any design for development adopted by the Agency, any restrictions or controls established by resolution of the Agency, and any applicable participation or other agreements.

## **SECTION VII. (700) METHODS FOR FINANCING THE PROJECT**

A. (701) General Description of the Proposed Financing Methods

Upon adoption of this Plan by the City Council, the Agency is authorized to finance implementation of this Plan with assistance from local sources, the State and/or the federal government, property tax increment, interest income, Agency bonds, donations, loans from private financial institutions or any other legally available source.

The Agency is also authorized to obtain advances, borrow funds, issue bonds or other obligations, and create indebtedness in carrying out this Plan. The principal and interest on such indebtedness may be paid from tax increment revenue or any other funds available to the Agency. Advances and loans for survey and planning and for the operating capital for administration of this Plan may be provided by the City until adequate tax increment revenue or other funds are available to repay the advances and loans. The City or other public agency, as it is able, may also supply additional assistance through issuance of bonds, loans and grants and in-kind assistance. Any assistance shall be subject to terms established by an agreement between the Agency, City and/or other public agency providing such assistance.

The Agency may issue bonds or other obligations and expend their proceeds to carry out this Plan. The Agency is authorized to issue bonds or other obligations as appropriate

and feasible in an amount sufficient to finance all or any part of Plan implementation activities. The Agency shall pay the principal and interest on bonds or other obligations of the Agency as they become due and payable.

B. (702) Tax Increment Revenue

For the purposes of the collection of property tax revenue pursuant to this Plan, the “effective dates of the ordinances” shall mean and refer to 30 days after the following dates:

1. November 30, 1983, the date the Dynamite Redevelopment Project Area was originally adopted by Ordinance No. 181, and
2. April 13, 1999, the date Project Area No. 2 was originally adopted by Ordinance No. 351.

All taxes levied upon taxable property within the Project Area each year by or for the benefit of the State, County, City or other public corporation (hereinafter called “Taxing Agency” or “Taxing Agencies”) after the effective date of the ordinances, shall be divided as follows:

1. That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of said Taxing Agencies upon the total sum of the assessed value of the taxable property in the Project Area as shown upon the assessment roll used in connection with the taxation of such property by such Taxing Agency, last equalized prior to the effective dates of the ordinances, shall be allocated to and when collected shall be paid to the respective Taxing Agencies as taxes by or for said Taxing Agencies on all other property are paid (for the purpose of allocating taxes levied by or for any Taxing Agency or Agencies which did not include the territory in the Project Area on the effective dates of the ordinances but to which such territory has been annexed or otherwise included after such effective dates, the assessment roll of the County last equalized on the effective dates of the ordinances shall be used in determining the assessed valuation of the taxable property in the Project Area on said effective dates).
2. That portion of said levied taxes each year in excess of such amount shall be allocated to, and when collected shall be paid into, a special fund of the Agency to pay the principal of and interest on loans, monies advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the Agency to finance or refinance in whole or in part, the Project and this Plan. Unless and until the total assessed valuation of the taxable property in the Project Area exceeds the total assessed value of the taxable property in the Project Area as shown by the last equalized assessment roll referred to in paragraph (1.) hereof, all of the taxes levied and collected upon the taxable property in the Project Area shall be paid to



the respective Taxing Agencies. When said loans, advances, and indebtedness, if any, and interest thereon, have been paid, all monies thereafter received from taxes upon the taxable property in the Project Area shall be paid to the respective Taxing Agencies as taxes on all other property are paid.

3. That portion of the taxes in excess of the amount identified in paragraph (1.) above which is attributable to a tax rate levied by a Taxing Agency for the purpose of producing revenues in an amount sufficient to make annual repayments of the principal of and interest on any bonded indebtedness for the acquisition or improvement of real property shall be allocated to, and when collected shall be paid into, the fund of that Taxing Agency. This paragraph (3.) shall only apply to taxes levied to repay bonded indebtedness approved by the voters on or after January 1, 1989.

The Agency is authorized to make pledges as to specific advances, loans and indebtedness as appropriate in carrying out the Project. The portion of taxes allocated and paid to the Agency pursuant to subparagraph (2.) above is irrevocably pledged to pay the principal of and interest on loans, monies advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the Agency to finance or refinance, in whole or in part, the redevelopment program for the Project Area.

For the Dynamite Redevelopment Project Area, the portion of taxes divided and allocated to the Agency pursuant to subdivision 2 of this Section 702 shall not exceed a cumulative total of \$750,000,000 adjusted annually following adoption of the 2004 Amendment by any increase in the Consumer Price Index (or substitute index), and shall not include the portion of taxes allocated to the funds of Taxing Agencies.

C. (703) Agency Bonds

The Agency is authorized to issue bonds and other obligations from time to time, if it deems it appropriate to do so, in order to finance all or any part of Plan implementation activities.

Neither the members of the Agency nor any persons executing the bonds are liable personally on the bonds or other obligations by reason of their issuance.

The bonds and other obligations of the Agency are not a debt of the City, County, or the State; nor are any of its political subdivisions liable for them; nor in any event shall the bonds or obligations be payable out of any funds or properties other than those of the Agency; and such bonds and other obligations shall so state on their face. The bonds and other obligations do not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction.

D. (704) Other Loans and Grants

Any other loans, grants, guarantees or financial assistance from the federal government, the State, or any other public or private source will be utilized, if available, as appropriate in carrying out this Plan. In addition, the Agency may make loans as permitted by law to public or private entities for any of its redevelopment purposes.

E. (705) Rehabilitation Loans, Grants, and Rebates

To the greatest extent allowed by State Law, the Agency and the City may commit funds from any source to rehabilitation programs for the purposes of loans, grants, or rebate payments for self-financed rehabilitation work. The rules and regulations for such programs shall be those which may already exist or which may be developed in the future. The Agency and the City shall seek to acquire grant funds and direct loan allocations from State and federal sources, as they may be available from time to time, for the carrying out of such programs.

**SECTION VIII. (800) ACTIONS BY THE CITY**

The City shall aid and cooperate with the Agency in carrying out this Plan and shall take all reasonable actions necessary to ensure the continued fulfillment of the purposes of this Plan and to prevent the recurrence or spread in the Project Area of conditions of blight. Actions by the City may include, but shall not be limited to, the following:

1. Institution and completion of proceedings for opening, closing, vacating, widening, or changing the grades of streets, alleys, and other public rights-of-way, and for other necessary modifications of the streets, the street layout, and other public rights-of-way in the Project Area. Such action by the City shall include the requirement of abandonment and relocation by the public utility companies of their operations in public rights-of-way as appropriate to carry out this Plan, provided that nothing in this Plan shall be deemed to require the cost of such abandonment, removal, and relocation to be borne by others than those legally required to bear such costs.
2. Institution and completion of proceedings necessary for changes and improvements to publicly owned parcels and utilities in the Project Area.
3. Performance of the above, and of all other functions and services relating to public health, safety, and physical development normally rendered in accordance with a schedule which will permit the redevelopment of the Project Area to be commenced and carried to completion without unnecessary delays.

4. Imposition, whenever necessary and applicable, of appropriate design controls within the limits of this Plan in the Project Area to ensure proper development and use of land.
5. Provisions for administration/enforcement of this Plan by the City after completion of development.
6. The undertaking and completion of any other proceedings necessary to carry out the Project.
7. The expenditure of any City funds in connection with redevelopment of the Project Area pursuant to this Plan.
8. Revision of the City Zoning Ordinance, adoption of specific plans or execution of statutory development agreements to permit the land uses and facilitate the development authorized by this Plan.
9. Preservation of historical structures.

#### **SECTION IX. (900) ADMINISTRATION AND ENFORCEMENT**

Upon adoption, the administration and enforcement of this Plan or other documents implementing this Plan shall be performed by the City and/or the Agency, as appropriate.

The provisions of this Plan or other documents entered into pursuant to this Plan may also be enforced by litigation or similar proceedings by either the Agency or the City. Such remedies may include, but are not limited to, specific performance, damages, re-entry onto property, power of termination, or injunctions. In addition, any recorded provisions which are expressly for the benefit of owners of property in the Project Area may be enforced by such owners.

#### **SECTION X. (1000) PLAN LIMITATIONS**

The following financial and time limitations shall apply to this Plan:

A. (1001) Amount of Bonded Indebtedness Outstanding At Any One Time

The amount of bonded indebtedness, to be repaid in whole or in part from the allocation of taxes pursuant to Section 33670 of the Redevelopment Law, which can be outstanding at one time shall not exceed \$194,000,000 adjusted annually following adoption of the 2004 Amendment by any increase in the Consumer Price Index (or substitute index), except by amendment to this Plan.

B. (1002) Time Frame to Incur Indebtedness

For Project Area No. 2 the time limit on the establishing of loans, advances, and indebtedness to be paid with the proceeds of property taxes received pursuant to Section

33670 of the Redevelopment Law to finance in whole or in part the redevelopment project shall be April 13, 2019. This limit, however, shall not prevent the Agency from incurring debt to be paid from the low and moderate income housing fund or establishing more debt in order to fulfill the Agency's housing obligations under Section 33413 of the Redevelopment Law. The loans, advances, or indebtedness may be repaid over a period of time longer than this time limit as provided herein. No loans, advances, or indebtedness to be repaid from the allocation of taxes shall be established or incurred by the Agency beyond this time limitation. This limit shall not prevent the Agency from financing, refunding, or restructuring indebtedness after the time limit if the indebtedness is not increased and the time during which the indebtedness is to be repaid is not extended beyond the time limit to repay indebtedness required by this section.

Provided, however, that the time limits established in this Section 1002 may be extended in the manner provided by applicable law.

C. (1003) Duration of This Plan

Except for the nondiscrimination and nonsegregation provisions of this Plan, and recorded covenants implementing the same, which shall remain in effect as in perpetuity, and except as otherwise expressly provided herein, the provisions of this Plan shall be effective, and the provisions of other documents formulated pursuant to this Plan shall be effective:

1. For the Dynamite Redevelopment Project Area: November 30, 2023.
2. For Project Area No. 2: April 13, 2029.

After the expiration of the effective term of the Plan, the Agency shall have no authority to act pursuant to the Plan except to pay previously incurred indebtedness and to enforce existing covenants or contracts. However, if the Agency has not completed its housing obligations pursuant to Section 33413 of the Redevelopment Law, the Agency shall retain its authority to implement requirements under 33413, including the ability to incur and pay indebtedness for this purpose, and shall use this authority to complete these housing obligations as soon as is reasonably possible.

D. (1004) Time Frame to Collect Tax Increment Revenue

Except as otherwise provided herein or by Redevelopment Law, the time limitation for the receipt of tax increment and the payment of indebtedness with the tax increment pursuant to Section 33670 of the Redevelopment Law Plan shall be as follows:

3. For the Dynamite Redevelopment Project Area: November 30, 2033.
4. For Project Area No. 2: April 13, 2044.

## **SECTION XI. (1100) PROCEDURE FOR AMENDMENT**

This Plan may be amended by means of the procedure established in Sections 33450-33458 of the Redevelopment Law or by any other procedure hereafter established by law.