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## LEGAL MEMORANDUM

TO: City Council

FROM: Tim Ramis

DATE: August 13, 2013

RE: **Process for Changing the Membership of the City Center Development Agency ("CCDA")**  
File No. 50014-36799

**PRIVILEGED AND CONFIDENTIAL  
ATTORNEY-CLIENT COMMUNICATION**

### INTRODUCTION

The City Council ("Council") has asked how the Council can go about changing the composition of the CCDA. Currently, the CCDA operates the City Center Urban Renewal Area ("URA") by implementing the City Center Urban Renewal Area Plan ("Plan"), and is comprised of the sitting members of the Council.

This memorandum provides the background on the Council actions that established the status quo, and sets forth the actions that Council must take in order to change the composition of the CCDA.

### BACKGROUND

The CCDA was created by Ordinance No. 89-05, which grants the CCDA all powers afforded urban renewal agencies under ORS 457. A copy of Ordinance No. 89-05 is attached as Exhibit 1 to this memorandum. This ordinance establishes the membership of the CCDA as follows.

"Membership. The City Center development Agency shall be comprised of members of the Tigard City Council as it lawfully exists from time to time. Any change in membership of the Tigard City Council shall automatically, and without need for further legislative actions, constitute an identical change in the membership of the City Center Development Agency."

August 13, 2013  
Page 2

The above language from Ordinance No. 89-05 is codified at section 2.64.030 of the Tigard Municipal Code.

Prior to the late 2005 adoption of the current version of the URA Plan, the Council passed Resolution No. 05-32, which “reactivated” the CCDA, and provided direction that the CCDA develop a new urban renewal plan to be adopted by vote of the people. A copy of Resolution No. 05-32 is attached as Exhibit 2 to this memorandum. That URA Plan was prepared and adopted by the Council later that year, and approved by the voters in 2006.

**QUESTION:**

How does the City Council change the composition of the CCDA?

**ANSWER 1:**

To change the composition of the CCDA, the City Council must pass an ordinance that states the desired membership of the CCDA, and specifically amends Ordinance No. 89-05 and TMC 2.64 to reflect the new membership. A change in the composition of the CCDA would not impact the authority of the CCDA to oversee the implementation of the URA Plan.

CITY OF TIGARD, OREGON

ORDINANCE NO. 89-05

AN ORDINANCE DECLARING A NEED FOR ESTABLISHING THE CITY CENTER DEVELOPMENT AGENCY AND CREATING THE CITY CENTER DEVELOPMENT COMMISSION.

WHEREAS, It has been determined that the city center study area economic vitality and development activity lags behind other areas in the city; and

WHEREAS, primary obstacles to attracting private development in the area are: lack of access, circulation and parking, mixed land uses, underutilized land, small individually owned parcels, lack of positive image and identity and public facilities adequate to meet future growth; and

WHEREAS, the City Council is interested in focusing efforts in the city center area that will assist in overcoming those obstacles and encourage economic growth in the area; and

WHEREAS, the obstacles identified as hindering private development in the city center area qualify as "blighting conditions" under ORS Chapter 457; and

WHEREAS, formation of the City Center Development Agency as an Urban Renewal Agency will allow the city to utilize the tools provided for in ORS 457.

THE CITY OF TIGARD ORDAINS AS FOLLOWS:

Section 1: Declaration of Blight. Pursuant to ORS 457.035, the Tigard City Council declares that blighted areas now exist in the City and that there is currently a need for an urban renewal agency to function in the City of Tigard.

Section 2: Agency Title. The urban renewal agency created by this ordinance shall be known as the City Center Development Agency.

Section 3: Membership. The City Center Development Agency shall be comprised of members of the Tigard City Council as it lawfully exists from time to time. Any change in membership of the Tigard City Council shall automatically, and without need for further legislative action, constitute an identical change in the membership of the City Center Development Agency.

Section 4: Powers. Subject to the limitations imposed by Section 5 of this ordinance, the City Center Development Agency shall have authority to exercise all powers available to the agency under ORS Chapter 457, including, but not limited to, the power of eminent domain. The powers conferred to this agency by ORS Chapter 457 are in addition and supplemental to the powers conferred by any other law.

Section 5: Limitations. Any act of the City Center Development Agency shall be considered the act of the urban renewal agency only and shall not be considered an act of the Tigard City Council, even though membership of both are identical.

The City Center Development Agency shall not exercise any power which, by charter, requires voter approval.

Section 6: Advisory Commission. The City Center Advisory Commission is hereby established. The Commission shall be comprised of seven to twelve members appointed by the Tigard City Council. The purpose of the Commission is to assist in implementation of the City Center Development Plan, to make recommendations to the City Center Development Agency and to help inform Tigard's citizens of the Plan's content and activities.

Section 7: Savings Clause. If any section or portion of this ordinance is determined to be unconstitutional or otherwise unlawful, the remaining sections and portions of this ordinance shall be severable and shall remain in effect.

Section 8: Effective Date. This ordinance shall be effective 30 days after its passage by the Tigard City Council, approved by the Mayor, and posted by the City Recorder.

PASSED: By unanimous vote of all Council members present after being read by number and title only, this 13<sup>th</sup> day of February, 1989.

Catherine Wheatley  
Catherine Wheatley, Deputy Recorder

APPROVED: This 13<sup>th</sup> day of February, 1989.

Gerald R. Edwards  
Gerald R. Edwards, Mayor

Approved as to form:

[Signature]  
City Attorney

Date 2/16/89

RESOLUTION NO. 05- 32

A RESOLUTION REACTIVATING THE CITY CENTER DEVELOPMENT AGENCY, AN URBAN RENEWAL AGENCY

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WHEREAS, after a Charter amendment terminating an earlier urban renewal agency of the City of Tigard, the Council adopted Ordinance 89-05 (codified at TMC Chapter 2.64) in 1989, activating the City Center Development Agency as the City's urban renewal agency; and

WHEREAS, under Ordinance 89-05, the City Council exercised the powers of the urban renewal agency; and

WHEREAS, the City Council, acting as the City Center Development Agency may designate another body to act as the Development Agency, and may do so at any time; and

WHEREAS, the City Council is committed to placing an Urban Renewal plan including tax increment financing on the May, 2006 ballot, at which time the Council will also incorporate the question of governance of the Urban Renewal Agency; and

WHEREAS, the City Center Development Agency's action in 1989 and the early 1990s did not lead to the adoption of an urban renewal plan; and

WHEREAS, the City Center Development Agency remained in existence after 1989 because the Agency was never terminated, but has not been actively pursuing development of urban renewal plans; and

WHEREAS, the conditions justifying the activation of the City Center Development Agency are still present within the City; and

WHEREAS, the City Council believes that it is time to consider development and adoption of an urban renewal plan to assist with development and redevelopment of Tigard's downtown and possibly other areas within the City; and

WHEREAS, the City Council chooses to have the City Council continue to act as the City's urban renewal agency,

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

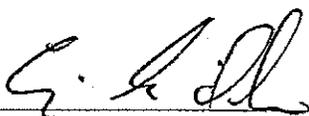
SECTION 1: The City Center Development Agency is reactivated and shall actively pursue development of an urban renewal plan for one or more areas within the City, as provided by ORS Chapter 457 and take other actions as authorized by ORS Chapter 457 and Ordinance 89-05.

SECTION 2: In pursuing the development of an urban renewal plan, the City Center Development Agency shall actively seek public input and shall consider the recommendations of the City Center Advisory Commission.

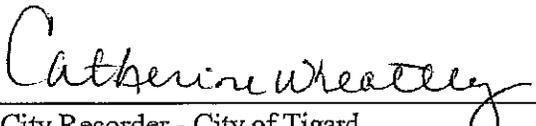
SECTION 3: The City Center Development Agency shall take all actions with due regard for the rights given to the voters of the City by Charter Sections 47 and 48.

SECTION 4: This resolution is effective immediately upon passage.

PASSED: This 10<sup>th</sup> day of May 2005.

  
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Mayor - City of Tigard

ATTEST:

  
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City Recorder - City of Tigard

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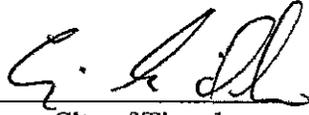
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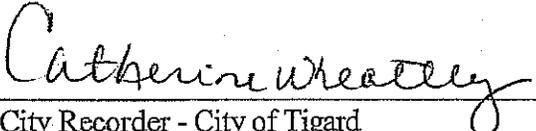
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