



## MEMORANDUM

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Date: September 8, 2017

To: Ed Manasse and Joanna Winter, City of Oakland

From: Nadine Fogarty and Alison Nemirow, Strategic Economics

Project: Downtown Oakland Specific Plan

Subject: Development-Based Tools to Preserve and Expand Arts and PDR Workspaces

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## INTRODUCTION

As part of the Downtown Oakland Specific Plan (DOSP) process, the City of Oakland is exploring strategies for preserving and enhancing arts and cultural uses and production, distribution, and repair (PDR) uses in the Downtown. This memorandum focuses on development-based tools to preserve and expand arts and PDR workspaces at risk of displacement, and to relocate artists and small manufacturers who are directly displaced by new development. The City is particularly interested in finding development-based tools that can be applied systematically throughout the Downtown (or districts within the Downtown) to achieve these goals. The analysis draws on Strategic Economics' previous market overview for the DOSP, as well as analysis and examples from previous studies performed for the City.<sup>1</sup>

Following this introduction, the remainder of the memorandum includes the following sections:

- **Background:** A brief overview of arts, cultural and PDR uses in the Downtown and a summary of concerns related to displacement.
- **Overview of potential tools:** This section describes the development-based tools that can be employed to preserve, expand, and relocate arts, cultural and PDR uses.
- **Implications for Downtown Oakland:** Includes a discussion of the feasibility of the tools given existing market conditions and existing policies (e.g., impact fees), as well as the policy tradeoffs that might be involved in implementation.
- **Topics for additional study and community input:** Implementation of any of the policies described below would require additional community participation, as well as further research and analysis, potentially including legal consultation. A list of additional topics for community input and additional study is provided at the end of the memorandum.

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<sup>1</sup> Including: City of Oakland, "Arts & Culture Research Compilation," prepared for the Downtown Oakland Specific Plan, 2017; Mayor's Artist Housing and Workspace Task Force, "Strategies for Protecting and Creating Arts & Cultural Space in Oakland," White Paper, Spring 2016; Hausrath Economics Group, "Economic Feasibility Study for Oakland Impact Fee Program," prepared for the City of Oakland, April 8, 2016.

## BACKGROUND

Downtown Oakland has many distinctive arts and cultural districts, including:

- The Jack London District,
- The Arts and Garage District,
- Koreatown/Northgate (KONO), and
- the Black Arts Movement & Business District.

PDR space is concentrated in two areas:

- The Arts and Garage District/KONO, which includes a historic base of automobile repair facilities, many of which have been converted to arts spaces; and
- In the Jack London District, primarily in west of Broadway and in the Waterfront Warehouse areas, where there are a number of early- to mid-20<sup>th</sup> century warehouse and manufacturing buildings, some of which have also been converted to arts or creative office uses.

These arts and PDR districts reflect the culture and history of Downtown Oakland's diverse communities. Furthermore, arts and PDR uses in the Downtown support local economic development, provide opportunities for entrepreneurship, and enable community gathering and greater social cohesion for residents of the Downtown and other neighborhoods in Oakland.

One of the many concerns related to arts and PDR displacement in Downtown is that workspaces will be converted to office, restaurants, entertainment, or cannabis uses, which can typically afford to pay higher rents than arts or PDR uses. There are also concerns that existing arts and PDR spaces will be demolished and replaced with new office or residential development. In 2015, Mayor Libby Schaaf's Artist Housing and Workspace Task Force surveyed 900 artists who live and/or work in Oakland. A quarter of the respondents indicated that they had been displaced either from their home or workspace in the past year, and the majority indicated that workspace and housing costs present the biggest challenges to being an artist in Oakland. The Task Force found that the threat of displacement from workspaces is particularly high, since there is no commercial rent control or other commercial rent protections.<sup>2</sup> Although the survey did not provide data on artist income, race, or ethnicity, people of color, low-income artists, and members of other disadvantaged groups may be particularly vulnerable to displacement from Oakland because these groups tend to have fewer financial resources available. Moreover, arts organizations serving communities of color tend to have smaller budgets and staffing compared to similar organizations in white communities.<sup>3</sup>

This memorandum focuses on tools that the City can use to retain or replace arts and PDR workspaces when new development occurs, and/or relocate artists or small manufacturers who are displaced by new development. It is important to note that the tools discussed in this memorandum are only a subset of the tools and strategies that can be used to preserve and expand arts, cultural, and PDR space in the Downtown. Other potential strategies could include (for example) preserving and expanding the availability of artist housing, designating specific arts and cultural districts, hosting additional arts and cultural events, expanding marketing and promotions efforts, increasing investments in murals and public arts, and

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<sup>2</sup> Mayor's Artist Housing and Workspace Task Force, "Strategies for Protecting and Creating Arts & Cultural Space in Oakland," White Paper, Spring 2016.

<sup>3</sup> Kalima Rose, Milly Hawk Daniel, and Jeremy Liu, *Creating Change through Arts, Culture, and Equitable Development: A Policy and Practice Primer*, PoliyLink, 2017.

imposing design guidelines on ground floor uses within designated districts. These strategies are outside the scope of this memorandum, but will be explored in other parts of the planning process.

## OVERVIEW OF POTENTIAL TOOLS

Cities use five main tools to leverage new development to preserve and expand space for arts, cultural, and PDR uses:

- Arts or PDR use requirement or zoning overlay;
- Replacement and/or relocation policy;
- Development agreements;
- Incentive zoning (also known as a bonus program); and
- Transfer of development rights (TDR).

Figure 1 describes the key features of each tool. The first two are **mandatory programs**. A zoning overlay establishes a mandatory requirement that new development projects in designated districts dedicate a specified amount of floor area to arts or PDR uses. A replacement or relocation policy would require the replacement of some percentage of existing space that is demolished as part of a development project, or the relocation of existing arts/PDR users either within the project or to another site.

Impact fees are another mandatory tool that is often discussed in the context of leveraging new development to fund activities that benefit the public. However, unlike the five tools that are the focus of this memo, impact fees are subject to the Mitigation Fee Act, which requires that impact fees be used to mitigate impacts directly associated with new development, and that the city establish a reasonable relationship ("nexus") between the development paying the fee, the size of the fee, and the use of fee revenues. This nexus requirement makes implementing a city- or district-wide impact fee related to the arts or PDR space challenging, since not all development projects will have an impact on arts or PDR space. The City of Oakland recently adopted new impact fees for affordable housing, transportation, and capital improvements, which went into effect on September 1, 2016. Oakland also has a separate public arts requirement that requires developers to provide public art on site or make an equivalent in-lieu contribution to a City fund.

**Figure 1. Tools for Leveraging New Development to Preserve and Expand Space for Art, Cultural and PDR Uses**

Tool	Description	Mandatory or Voluntary?	Predictability for City & Developers	Flexibility for City & Developers	Implementation Considerations	Examples
Arts or PDR Use Requirement/ Zoning Overlay	Requirement that new development in designated districts dedicate a specified amount of floor area to arts or PDR uses	Mandatory	High	Low	<ul style="list-style-type: none"> <li>Often combined with other zoning restrictions (e.g., limit on the percent of streetscape frontage occupied by restaurants/bars) and design guidelines as part of a larger strategy for protecting a designated arts district.</li> <li>The amount of arts/PDR space required must be calibrated to ensure that development remains feasible based on real estate market conditions, construction costs, and other factors.</li> <li>Depending on the specific site, a flat requirement based on floor area may not result in a viable space for users</li> </ul>	<ul style="list-style-type: none"> <li>The Uptown Arts Mixed-Use Overlay District in Washington, D.C., requires new construction to dedicate 5 percent of gross floor area (GFA) to arts uses. In addition, there is a height and density bonus for arts uses, a limit on the maximum streetscape frontage that may be occupied by restaurants and bars (50%), new streetscape plans, and other design and use requirements.<sup>4</sup></li> <li>The City of Somerville, MA also requires new buildings in certain districts to set aside 5% of GFA as leasable arts and creative use space.<sup>5</sup></li> </ul>
Replacement and/or Relocation Policy	Requirement that new development in designated districts replace some percentage of existing space that is demolished as part of a development project, or assist existing users with relocation	Mandatory	High	Low	<ul style="list-style-type: none"> <li>Requirement could be tied either to replacing existing space, or assisting with relocation of existing users</li> <li>Depending on the site, relocation of existing users could occur either on-site, or to an off-site location</li> </ul>	<ul style="list-style-type: none"> <li>San Francisco's Proposition X, which voters passed in November 2016, requires that new development in the Eastern Neighborhoods (which includes the Mission, Potrero Hill, Showplace Square, the Central Waterfront, and parts of South of Market) that involves the demolition of PDR, arts, or institutional community uses (such as child care and community facilities) provide replacement space. Depending on the underlying zoning designation, the replacement requirement ranges from 50 to 100 percent; projects with less than 15,000 square feet of PDR, arts, or community space are exempt. This requirement preempted previously adopted requirements in the Eastern Neighborhoods Plans.<sup>6</sup></li> </ul>
Development Agreements	Structured, bilateral negotiation with developers to obtain desired improvements (such as dedicated arts/PDR space or other public benefits) in exchange for granting development rights.	Voluntary	Low	High	<ul style="list-style-type: none"> <li>A negotiated agreement can maximize public benefit while allowing flexibility to respond to market conditions.</li> <li>The type and amount of public benefits that will be required are subject to negotiation, creating uncertainty for the City and developer.</li> <li>Requires a project of significant size to justify the use of resources for negotiation.</li> </ul>	<ul style="list-style-type: none"> <li>San Antonio Center in Mountain View is an example of a large-scale development project that is subject to a development agreement. The project involves the redevelopment of an aging big box shopping center at El Camino Real and San Antonio Road with new residential units, office space, a hotel, theater, restaurants and retail. Under the conditions of approval for the project, the developer (Merlone Geier Partners) provided significant infrastructure improvements as part of Phase I, including a park and sidewalk and streetscape improvements on El Camino Real and San Antonio Road. As part of Phase II, the developer agreed to make improvements to the intersection of El Camino Real and San Antonio Road and redesign and reconstruct San Antonio Road between El Camino Real and California Street to include new median, landscaping, bicycle lanes, improved pedestrian connections, and new lane configurations.</li> </ul>
Incentive Zoning (also known as a Bonus Program)	Development is eligible for an increase in density, floor area ratio (FAR), or height in exchange for the provision of public benefits such as dedicated arts/PDR space. These benefits can be provided in-kind (either on-site or off-site) or in the form of a financial contribution to a fund that the City will use to provide the public benefits.	Voluntary	Medium	Medium	<ul style="list-style-type: none"> <li>The magnitude of the public benefits that can be expected depends on the value of the increased density, FAR, or height to development, which in turn depends on the relative profitability of the base density, construction costs for different building types, and strength of the real estate market.</li> <li>Different levels of density, FAR, or height ("tiers") may be available in exchange for providing additional public benefits.</li> <li>May be combined with a process that involves development agreements to maximize flexibility for the City and developer.</li> <li>Programs must be structured carefully to avoid being subject to the Mitigation Fee Act,<sup>7</sup> and should include language explaining how the program interacts with the State Density Bonus Law (for example, whether the two programs can be combined).</li> </ul>	<ul style="list-style-type: none"> <li>Oakland's Broadway-Valdez Specific Plan includes an incentive zoning program. The Plan defines "Retail Priority Sites" on which developers are encouraged to provide additional retail space above the amount of retail required by base zoning, in exchange for the right to develop residential units and increase density above the base zoning. The program also includes a transfer of development rights component (described below). The language of the Code clearly acknowledges the state's Density Bonus Law and allows developers to choose between the two incentive zoning programs when planning for new units.</li> <li>Berkeley's 1990 Downtown Plan included a cultural density bonus that provided development with additional development in exchange for the inclusion of cultural space. The Gaia Building on Allston Way and the Arpeggio Building on Center Street both took advantage of the program, but uncertainty around the definition of a "cultural facility" and the division of responsibilities between the developer and tenant for building out the space created challenges for implementation.<sup>8</sup> The 2012 Downtown Area Plan does not include the cultural density bonus program, but requires that development projects that exceed 75 feet in height provide community benefits potentially including: affordable housing, supportive social services, green features, open space, transportation demand features, job training, or employment opportunities.</li> </ul>

<sup>4</sup> City of Oakland, "Arts & Culture Research Compilation," prepared for the Downtown Oakland Specific Plan, 2017.

<sup>5</sup> Ibid.

<sup>6</sup> SPUR Voter Guide, "Proposition X Manufacturing and Arts Space," <https://spurvoterguide.org/sf-nov-16/prop-x-manufacturing-and-arts-space/>; Ballotpedia, "San Francisco, California, Replacement Space Requirement for Development Projects, Proposition X (November 2016)," [https://ballotpedia.org/San\\_Francisco,\\_California,\\_Replacement\\_Space\\_Requirement\\_for\\_Development\\_Projects,\\_Proposition\\_X\\_\(November\\_2016\)](https://ballotpedia.org/San_Francisco,_California,_Replacement_Space_Requirement_for_Development_Projects,_Proposition_X_(November_2016)).

<sup>7</sup> In most cases, cities have not demonstrated a legal nexus – i.e., a direct relationship between the impacts created by the project and the size and nature of the developer contribution – prior to establishing density incentive programs because participation in the program is voluntary. However, there is some legal uncertainty around whether density incentive programs require the establishment of a nexus; this issue should be addressed with the assistance of a city attorney.

<sup>8</sup> Mayor's Artist Housing and Workspace Task Force, "Strategies for Protecting and Creating Arts & Cultural Space in Oakland," White Paper, Spring 2016.

Tool	Description		Predictability for City & Developers	Flexibility for City & Developers	Implementation Considerations	Examples
Transfer of Development Rights (TDR)	Property owners may transfer unused development potential from a property with a designated historic/cultural resource or other specified characteristics (the “originating site”) to another property (the “receiving site”). The transfer enables the owner of the receiving site to develop additional gross floor area, above and beyond what would otherwise be allowed.	Voluntary	Medium	Medium	<ul style="list-style-type: none"> <li>Typically structured with the goal of preserving existing historic uses on designated sites (as in San Francisco’s program). Can also be used as part of an incentive zoning program to allow developers to transfer unused bonus density to another site (as in Oakland’s Broadway-Valdez program).</li> <li>TDR programs structured to achieve preservation goals require the existence of both buildings that the City wishes to preserve (originating sites), and parcels where the City would permit intensified development above and beyond what is permitted by the base zoning (receiving sites).</li> <li>To be effective, owners of the originating sites must be able to extract enough value from the sale of TDR to offset the costs of preserving their property. The value the transferred development right depends on the relative profitability of the base allowed density, construction costs for different building types, and the strength of the real estate market.</li> <li>Depending on the program, transfers may occur between adjacent sites (i.e., as part of one development), or among designated sites within a district. Alternatively, some larger programs establish banks that act as intermediaries in purchasing and selling development rights (note that this typically requires an initial financial investment from the City).</li> <li>Interactions with other programs that also offer additional density must be clearly stipulated.</li> </ul>	<ul style="list-style-type: none"> <li>San Francisco’s Transfer of Development Rights program was created in 1985 to incentivize owners of historic buildings to maintain them as is. The program allows unused development potential from a preservation property – including public buildings – to be transferred to a development property located elsewhere, in order to increase the latter development’s allowable gross floor area.<sup>9</sup></li> <li>Under Oakland’s Broadway-Valdez Specific Plan, a developer of a “retail priority site” may transfer residential bonus units (granted as a result of the provision of additional retail space) to a different parcel within the Plan Area.</li> </ul>

<sup>9</sup> Seifel Consulting, “TDR Study: San Francisco’s Transfer of Development Rights Study,” prepared for the San Francisco Planning Department, June 2013, [http://commissions.sfplanning.org/hpcpackets/HPC\\_TDR\\_Packet\\_2013\\_07\\_11.pdf](http://commissions.sfplanning.org/hpcpackets/HPC_TDR_Packet_2013_07_11.pdf).

The other three tools are **voluntary programs**. Development agreements are structured negotiations with individual developers that allow the City to obtain desired improvements (such as dedicated arts space or other public benefits) in exchange for granting development rights. The City has the opportunity to negotiate development agreements when development occurs on City-owned property, or when developers ask for concessions such as additional density, height, or FAR than is permitted as-of-right by existing zoning. Development agreements are distinct from community benefit agreements (CBAs) or negotiated settlement agreements. Whereas development agreements are structured negotiations between a City and a developer in exchange for development rights, CBAs entail developers working directly with neighborhood and community organizations, sometimes mediated by a City Council office. Recent CBAs in the Downtown or Chinatown have resulted in a total aggregate value exceeding \$20 million, including the value of affordable units.<sup>10</sup> Some of the benefits that have been provided through CBAs include below-market rate retail space with a culture-specific focus, open space, contributions to an anti-displacement fund, funds for neighborhood organizations, and affordable housing contributions. While CBAs have played an important role in the Downtown and may continue to do so, this memorandum focuses on tools that the City can use more systematically as part of the entitlement process.

Incentive zoning programs (also known as bonus programs) offer increased height, FAR, or density over the base amount allowed by-right, in exchange for providing a pre-established contribution that benefits the public. These programs can be used to incentivize a variety of developer contributions, including the provision (or preservation) of arts, cultural, or PDR space but also – and more typically – affordable housing, streetscape improvements, parks and open space, and other community facilities. Depending on the design of the program, developers may be asked to build the public benefits directly (known as an “in-kind” contribution) or contribute to a fund that the City then uses to make district-wide improvements. In-kind contributions may be provided either on-site as part of the project, or located off-site.

TDR programs are also voluntary, and allow property owners to transfer unused height, FAR, or density from a site with a designated historic or cultural use (the “originating site”) to another property (the “receiving site”). Another variation on TDR programs allows developers to transfer bonus height, FAR, or density received through an incentive zoning program to another site.

Selecting the right tool (or tools) involves making a tradeoff between flexibility and predictability. The City must also evaluate zoning requirements, market conditions, and other factors to ensure that the selected tool(s) will provide sufficient incentives to property owners and developers for the City to achieve its goals. The following section evaluates these factors and the potential application of the tools in Downtown Oakland.

## IMPLICATIONS FOR DOWNTOWN OAKLAND

**Development agreements provide the most flexibility for the City, but require significant resources to pursue and create uncertainty for developers and the community about the level of contribution that will be provided.** Development agreements allow the City to respond to changing market conditions and site-specific conditions. As a result, this tool may result in a higher value of contributions from each individual development project compared to the other tools shown in Figure 1, which need to be calibrated to apply to multiple projects over time. However, project-level development agreements require significant resources from both City staff and elected officials and are challenging to apply systematically to many projects. Relying on negotiations also creates uncertainty for both the developer and the community about

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<sup>10</sup> Information provided by Eric Arnold, July 31, 2017.

the level of density, FAR, or height that will be built, and the amount of public benefits (whether arts/PDR space or other) that will be provided.

**The Downtown Specific Plan offers an opportunity to establish a more formal program in the Downtown’s arts/PDR districts that sets clear expectations for both developers and the community.**

A mandatory use requirement, an incentive-based zoning program, or a TDR program could set clearer expectations about both the building types that will be developed, and the amount of arts/PDR space (and other public benefits) that will be provided in exchange for specific increments of density, FAR, or height.

**Incentive zoning programs work best in areas where significant upzoning is taking place and the market supports higher density development than allowed by the base zoning designation.** Developers are more likely to participate in an incentive-based program if the bonus density, FAR, or height offered provides a substantial economic value. The value of the bonus depends on the relative profitability of the base allowed density, FAR, or height and the feasibility of different building types given construction costs and real estate market conditions. Most of the Downtown is already zoned to allow for high density development, although in recent years, low-rise development has been more feasible than mid- or high-rise development.<sup>11</sup> Several new high-rise tower projects are now moving forward, but construction costs and financing for these projects remain challenging.<sup>12</sup> Given the existing zoning and the difficulties associated with higher density development, an incentive zoning program would likely generate limited developer contributions in most parts of the Downtown. However, there may be some opportunity areas within the Downtown that could accommodate higher densities than are currently zoned, and where an incentive-based program could be more successful.

**TDR programs require “originating sites” that the City wishes to preserve, “receiving sites” that are appropriate for intensified development above and beyond what is permitted by the base zoning, and a market for additional density, FAR, or height.** In order for a TDR program to be effective, owners of the originating sites must be able to extract enough value from the sale of the transferred development rights (additional density, FAR, or height) to offset the costs of preserving their property. As with incentive-based zoning, additional density, FAR, or height is unlikely to generate significant value in most of the Downtown given that high intensity development – and in some cases, higher intensity development than the market currently supports – is already permitted. However, there may be some limited opportunities for this tool if the City can identify potential receiving sites where additional density, FAR, or height would provide significant value. The City would also need to identify specific originating sites, or criteria for properties that would be eligible to apply to be originating sites.

**A mandatory requirement may offer the most straightforward process for achieving preservation goals, especially in the absence of significant upzoning.** The City could require that new development in designated districts dedicate a specified amount of floor area to arts or PDR uses, replace some percentage of existing space that is demolished as part of a development project, or assist existing users with relocation (either on-site as part of the new development project, or elsewhere in the district). This type of requirement would ensure that the City’s goals around arts/PDR preservation are met as new development occurs.

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<sup>11</sup> Strategic Economics and Van Meter Williams Pollack, “Lake Merritt Station Area Plan Community Benefits Analysis,” prepared for APEN, December 2012; AECOM, “Downtown Oakland Development Feasibility Study,” prepared for City of Oakland Department of Planning and Building and MTC, October 2013.

<sup>12</sup> Roland Li, “Mapped: Here’s where Oakland’s new wave of 20 towers is rising,” *San Francisco Business Times*, March 16, 2017, <http://www.bizjournals.com/sanfrancisco/news/2017/03/16/oakland-tower-development-housing-office-cre.html>.

**Implementation of a mandatory requirement would require careful calibration based on market conditions, the relative development feasibility of different uses, and tradeoffs with other policy goals.**

Arts and PDR uses generate low rents relative to the types of uses that are driving new development in Downtown Oakland. For example, Strategic Economics estimated that in 2015, rents for PDR space in the Jack London area were in the range of \$0.90 to \$1.00 per square foot. In comparison, average rents for Downtown office space were at \$3.21 per month (full service) for Class A, and \$2.70 overall.<sup>13</sup> A mandatory requirement will only result in new development – and the provision of new or replacement arts/PDR space – if the requirement is low enough that the development overall generates sufficient revenues to remain financially feasible. Other required contributions (such as the City’s new impact fees, discussed below) will also affect the feasibility of any requirement.

**In light of Oakland’s new impact fees, commercial development may have limited capacity to support new arts/PDR use requirements.** Office development was not financially feasible at the time that the impact fee studies were conducted. Because of concerns about feasibility, the City’s new impact fees were set to phase in slowly over a five-year time frame, with the maximum fees for office and other commercial development set at the upper end of the amount that could be absorbed based on the feasibility analysis conducted by Hausrath Economics. The City’s new impact fees for residential development were also set at approximately the maximum level possible without having adverse impacts on development feasibility.<sup>14</sup>

**The City could consider combining multiple tools as part of a broader strategy for preserving and promoting the cultural arts and/or PDR uses in designated areas.** For example, the City could implement a baseline requirement for the amount of arts/PDR space that new development must provide or replace in a designated district, or a policy that requires any demolished space to be replaced (or users to be relocated). This baseline requirement could be paired with a program that provides bonus density, FAR, height, or other incentives for development projects that agree to provide additional space. Assuming the City can identify appropriate receiving sites, the program could allow property owners to transfer unused density, FAR, or height to other sites within the district (or elsewhere in Downtown). This approach would resemble the combination of tools used to require and incentivize new retail space in the Broadway-Valdez Plan Area, and would work best in an area where developers would see a significant economic return from building at heights or densities above the levels permitted by the base zoning requirement, in return for providing additional arts/PDR space.

**In addition to development-based tools, the strategy for each district would ideally also include other policies aimed at highlighting the area’s history and addressing specific needs identified in partnership with local stakeholders.** Examples of other, potentially complimentary policies include expanding marketing efforts, increasing investments in public arts, imposing restrictions on retail or restaurant street frontage, and/or encouraging temporary arts and maker spaces in vacant properties. The specific policies should be tailored to reflect the history and needs of the different districts. For example, a strategy in the Arts and Garage District might build on the success of Art Murmur and First Friday while also highlighting the district’s historic automobile uses. This type of comprehensive approach could strengthen existing arts and PDR uses throughout each distinctive district, and help increase the value to property owners and developers of preserving arts, cultural, and/or PDR space as a distinctive component of a larger project.

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<sup>13</sup> Dover, Kohl & Partners, Opticos, and Strategic Economics, “Priority Development Area Profile Report,” Downtown Oakland Specific Plan: Existing Conditions, prepared for the City of Oakland.

<sup>14</sup> Hausrath Economics Group, “Economic Feasibility Study for Oakland Impact Fee Program,” prepared for the City of Oakland, April 8, 2016.

## TOPICS FOR ADDITIONAL STUDY AND COMMUNITY INPUT

Additional community participation and analysis will be needed to determine which tool or combination of tools is most likely to be successful in designated districts within Downtown Oakland. Some of the additional factors that should be considered include (but are not limited to):

- Community priorities for preservation, including the specific types of arts and/or PDR uses that should be preserved in different districts within Downtown.
- The potential equity implications of different policy options, including “who benefits, who pays, and who decides.”<sup>15</sup>
- The specific space needs of users at risk of displacement (e.g., floor area, ceiling height, etc.).
- The type of new development that is expected to occur (e.g., residential v. office) and the extent to which arts or PDR uses can feasibly be incorporated into that development from a design perspective.
- The financial feasibility of new development (given current real estate market conditions, construction costs, impact fees, other City requirements, etc.) and the extent to which new development can support additional requirements.
- Other desired contributions in addition to the preservation/provision of arts and PDR space (such as providing additional street improvements or affordable housing) that may also affect development feasibility.
- Any potential legal considerations.

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<sup>15</sup> Kalima Rose, Milly Hawk Daniel, and Jeremy Liu, *Creating Change through Arts, Culture, and Equitable Development: A Policy and Practice Primer*, PolyLink, 2017.