REPORT TO COUNCIL 46
City of Sacramento

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Staff Report
December 12, 2006

Honorable Mayor and
Members of the City Council

Title: Railyards: Intermodal Site Acquisition and Track Relocation Agreements

Location/Council District: Railyards/District 1

Recommendation: 1) Adopt a resolution approving the Purchase and Sale Agreement for the acquisition of the Intermodal Transportation Facility site; 2) Adopt a resolution approving the Track Relocation Financing Agreement subject to environmental review and future Council action 3) Direct staff to proceed with negotiating a Development Agreement for Council approval for development of the Railyards project, if the developer closes escrow on the Railyards Property.

Contact: Marty Hanneman, Assistant City Manager 808-7508; Dave Harzoff, Special Projects Manager/Economic Development 808-5385

Presenters: Marty Hanneman, Assistant City Manager

Department: City Manager

Division:

Organization No: 0310

Description/Analysis

Issue: The Purchase and Sale Agreement and the Track Relocation Financing Agreement represent the first phase of the formal partnership between the City and S. Thomas Enterprises of Sacramento, LLC (Thomas) for development of the Downtown Sacramento Railyards. These agreements were requested by Thomas prior to their closing escrow and taking ownership of the Railyards property. The major deal points of the two agreements are listed in Attachment 1 and the full agreements are on file with the City Clerk. The terms of these two agreements are contingent upon Thomas closing escrow with Union Pacific Railroad (UPRR). Thomas has also agreed to negotiate shared infrastructure funding and phased construction over the life of the project consistent with the City's Memorandum of Understanding with Millennia Associates (Agreement 2003-176 -1), now known as S. Thomas Enterprises of Sacramento, LLC.

Policy Considerations: The development of the Railyards supports the City of Sacramento's strategic goals of implementing a smart growth development strategy,

improving and diversifying the transportation system, and expanding economic development throughout the City.

Environmental Considerations: In connection with the Purchase and Sale Agreement, as indicated in the Background Section, the City's acquisition of Parcel A is intended to preserve, operate, repair and rehabilitate the Historic Depot and related parking and rail facilities without increasing or intensifying the use of such improvements. As such, the acquisition of Parcel A is exempt from environmental review pursuant to CEQA Guideline Sections 15300 and 15301. The completion of the acquisition of Parcel B is subject to environmental review, including the review conducted as part of the preparation of the EIR. Likewise, the implementation of the Track Relocation Financing Agreement is subject to environmental review. Both agreements are structured so certain obligations are subject to further action after completion of the environmental review process. Consequently, certain obligations contained in the agreements cannot be legally binding until the environmental review process is completed. The City Council retains full discretion to terminate or modify those obligations based on environmental concerns.

Rationale for Recommendation: Approving these agreements creates the first phase of the public-private partnership necessary to develop the Railyards and the Intermodal facility. The terms of these two agreements are contingent upon Thomas closing escrow with UPRR. Thomas has requested this first phase commitment of City resources concurrent with their close of escrow on the Railyards property.

Financial Considerations: Both land acquisition and track relocation will ultimately be paid for from Measure A funds committed over the next four years to the Intermodal project. A one-year short term borrowing from transportation contingency funds will be necessary to raise $30 million immediately but will be repaid from next year's Measure A installment. Funding for these agreements is in the Sacramento Intermodal Transportation capital improvement project (CF41).

Emerging Small Business Development (ESBD): No goods or services are being acquired with this action.

Respectfully Submitted by: _____
Marty Hanneman
Assistant City Manager

Recommendation Approved:

_____
for Ray Kerridge
City Manager

Table of Contents:

	Pg	1	Report
Attachments			
1	Pg	4	Background
2	Pg	5	Summary of the Major Business Terms
3	Pg	7	Map showing location of two Intermodal parcels
4	Pg	8	Resolution - Intermodal Site Purchase and Sale Agreement
5	Pg	10	Resolution - Track Relocation Financing Agreement

ATTACHMENT 1

BACKGROUND

The approximately 240-acre Union Pacific Railyards property is under contract to be purchased by a subsidiary of S. Thomas Enterprises of Sacramento, LLC (Thomas) from Atlanta, Georgia. The property includes the site for the planned Intermodal Transportation Facility (ITF) which is approximately 15.3 acres and includes the existing Sacramento Valley Station. An additional 17.5 acres contains a portion of the existing rail line and the new proposed relocated track alignment. Thomas submitted an entitlement application for development of the full Railyards property in the spring of 2006. An environmental impact report (EIR) is being prepared to evaluate the environmental impacts of the development, including the ITF. The EIR is estimated to be completed by the summer of 2007.

The purchase and sales transaction between Thomas and Union Pacific Railroad (UPRR) requires Thomas to close escrow by December 31, 2006. Thomas wants the City to commit to purchasing the ITF site and financing the relocation of the rail tracks prior to their moving forward and acquiring the property. This requires that the two agreements which are the subject of this report be approved by the City Council before the end of the year and are contingent upon Thomas closing escrow with UPRR. Staff believes there is very little probability that Thomas could postpone acquiring the Railyards beyond the end of the year. Portions of these agreements will require further Council action after the EIR for the Railyards is completed.

The subject two agreements include a purchase and sale agreement relating to two parcels (Parcel A and Parcel B – see Attachment 3) that are located within the Depot district of Thomas' development plans for the Railyards. While development of the ITF is subject to numerous approvals by the City and applicable stakeholders to that project, the City seeks to obtain the Historic Railroad Depot and related parking in order to preserve, improve and operate the historic structure and to improve parking operations, all in support of current rail transportation services. The acquisition of Parcel A supports these purposes and the City does not anticipate, nor does it intend that its acquisition will increase or intensify the use of acquired assets. The acquisition of Parcel B will require additional City Council approval to take place in conjunction with, among other things, certification of the EIR. Likewise, the Track Relocation Funding Agreement, the second agreement proposed for approval would require further environmental review before its terms are implemented.

ATTACHMENT 2

Sacramento Railyards
Summary of the Major Business Terms for the Intermodal Site Purchase and Sale Agreement and Track Relocation Financing Agreements

The following Terms and Conditions are contingent on S. Thomas Enterprises of Sacramento, LLC and Union Pacific Railroad closing escrow and expires at midnight 12/29/06 (unless extended per item 14. below).

Intermodal Site Purchase and Sale Agreement

1. City acquires Intermodal site in 2 phases (Parcels A: existing station – 8.82 ac; and Parcel B: expansion area north of existing station and relocated rail corridor – 23.99 ac; for a total of **32.81 acres**)

2. Final property value and purchase price to be determined by appraisal/mediation/arbitration process

3. City to pay Thomas $30 million cash down payment; provide a promissory note for $25 million at closing; and gets title to Parcel A

4. Parcel B to be transferred to City after environmental review is completed and additional action taken; City provides note if adequate funds not available

5. Thomas provides financial security for up to $55 million for repayment if City overpaid for Parcel A. Any City overpayment will be returned with interest at the prime rate and may be applied to the purchase price of Parcel B and/or the track relocation and interim passenger facility improvements

6. Thomas provides environmental indemnity and toxics insurance coverage to City

7. City takes over all parking operations at close of Thomas and UPRR escrow

Track Relocation Financing Agreement

8. Implementation of the terms of this agreement is subject to completion of environmental review and final Council action required to be legally binding

9. City pays up to $40 million for track relocation and to build interim passenger facilities; any cost overruns to be shared equally; Thomas to carry note on financing if necessary (24 mo's @ prime rate)

10. Track relocation to be completed based on a mutually agreed upon schedule

11. Thomas to construct and City provides note if adequate funds not on hand when needed

Additional Terms

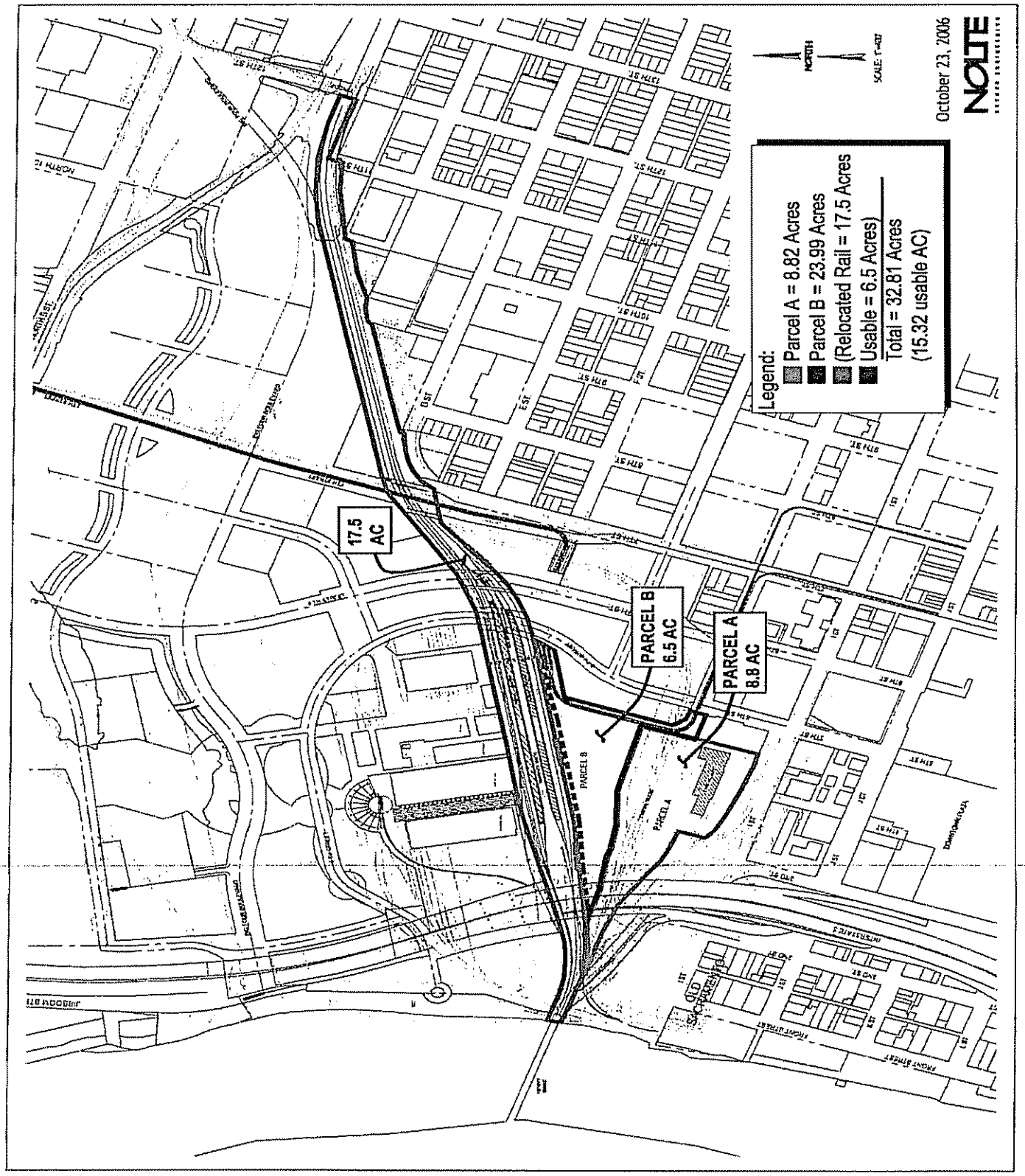
12. Thomas agrees to prepay all outstanding entitlement application costs in advance

13. The parties agree to negotiate shared funding for infrastructure and phased construction over the life of the development project (per MOU with Millennia; Agreement 2003-176-1)

14. The City Manager is authorized to extend these terms and conditions by 30 days

Attachment 3

Map Showing Two Intermodal Site Acquisition Parcels



ATTACHMENT 4
AMENDED

RESOLUTION NO.

Adopted by the Sacramento City Council

RESOLUTION APPROVING A PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS FOR ACQUISITION OF THE INTERMODAL TRANSPORTATION FACILITY SITE

BACKGROUND

A. S. Thomas Enterprises of Sacramento, LLC is in escrow to buy the Sacramento Railyards property from the Union Pacific Railroad.

B. The City of Sacramento has identified the Sacramento Valley Station-Intermodal Transportation Facility as its number one priority capital improvement project.

C. S. Thomas Enterprises of Sacramento, LLC wants a financial commitment from the City to purchase the Intermodal site and to relocate the existing rail line prior to closing escrow on their purchase of the Railyards property.

D. S. Thomas Enterprises of Sacramento, LLC has agreed to negotiate shared funding for infrastructure and phased construction over the life of the development project consistent with the Memorandum of Understanding with Millennia Associates (Agreement 2003-176-1).

E. Acquisition of Parcel A is exempt from provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15300 and 15301 because the facility on Parcel A is an existing use and the City is not expanding the use of the existing facility.

F. Acquisition of Parcel B and the related development of the Intermodal Transportation Facility (ITF) is not exempt from provisions of CEQA and would require environmental review prior to its acquisition.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The City Manager is hereby authorized to execute the Purchase and Sale Agreement and Joint Escrow Instructions Agreement with S. Thomas Enterprises of Sacramento, LLC and any necessary implementing documents for acquisition of the Intermodal Transportation Facility site with such contingencies, conditions and other provisions as described therein.

Section 2. The City Manager is authorized to make a $30 million cash advance payment from CIP CF41 for this purpose.

Section 3. The City Manager is authorized to execute a $25 million note payable in Fiscal Year 2009 for this purpose.

Section 4. The City Manager is further authorized to extend the terms and conditions of this agreement by thirty days beyond the December 29, 2006 termination date.

Section 5. Staff is directed to return to the City Council for its further consideration of the acquisition of Parcel B in conjunction with appropriate environmental review and after consultation with State and Federal agencies relative to the status of federal funding for the future intermodal transportation project.

Section 6. Staff is directed to negotiate shared funding for infrastructure and phased construction over the life of the development project as called for in the Memorandum of Understanding with Millennia Associates (Agreement 2003-176-1).

ATTACHMENT 5
AMENDED

RESOLUTION NO.

Adopted by the Sacramento City Council

RESOLUTION APPROVING A TRACK RELOCATION AND FINANCING AGREEMENT FOR RELOCATION OF THE MAIN LINE AND PASSENGER STATION RAIL TRACKS IN THE VICINITY OF THE INTERMODAL STATION

BACKGROUND

A. S. Thomas Enterprises of Sacramento, LLC is in escrow to buy the Sacramento Railyards property from the Union Pacific Railroad.

B. The City of Sacramento has identified the Sacramento Valley Station-Intermodal Transportation Facility as its number one priority capital improvement project.

C. The City of Sacramento has identified the relocation of the rail lines as important for the development of the expanded Intermodal Facility and the first phase of the Sacramento Railyards development project.

D. S. Thomas Enterprises of Sacramento, LLC wants a financial commitment from the City to relocate the existing rail lines and to purchase the expanded Intermodal site prior to closing escrow on their purchase of the Railyards property.

E. In the Purchase and Sale Agreement (PSA) being approved concurrently with this Track Relocation and Financing Agreement (TRFA) acquisition of Parcel A is exempt from provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15300 and 15301 because the facility on Parcel A is an existing use and the City is not expanding the use of the existing facility.

F. The relocation of the tracks contemplated by this TRFA, acquisition of Parcel B under the PSA, which is the location for the relocated tracks, and the related potential development of an expanded Intermodal Transportation Facility (ITF) are not exempt from provisions of CEQA and would require environmental review prior to moving forward with any of those activities.

G. After a full environmental analysis is completed a subsequent discretionary action must be taken by the City Council prior to the implementation of this Track Relocation and Financing Agreement.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The Track Relocation and Financing Agreement with S. Thomas Enterprises of Sacramento, LLC is approved and implementation of various provisions of the agreement is subject to completion of the full environmental analysis and subsequent City Council discretionary action.

Section 2. The City Manager is hereby authorized to execute the agreement and any necessary implementing documents with the contingencies, conditions and other provisions as stated therein.

Section 3. The City Manager is authorized to execute a note for the City's share of track relocation costs. This note will be payable two years after its authorization.

Section 4. The City Manager is further authorized to extend the terms and conditions of this agreement by thirty days beyond the December 29, 2006 termination date.

Section 5. Staff is directed to return to the City Council for its further consideration of the implementation of the Track Relocation and Financing Agreement in conjunction with appropriate environmental review and after consultation with State and Federal agencies relative to the status of federal funding for the future Intermodal transportation project