

# Item No. 24

# Supplemental Material

For  
**City of Sacramento**  
City Council  
Housing Authority  
Redevelopment Agency  
Economic Development Commission  
Sacramento City Financing Authority

## Agenda Packet

**Submitted:** 12/7/07

**For the Meeting of:** 12/11/07

- Additional Material
- Revised Material

**Subject:** Sacramento Railyards

Attached please find the revised Attachment 1 to the Redevelopment Agency resolution regarding the Owner Participation Agreement (OPA) Business Terms in both red-lined and clean versions.

**Contact Information:** Dave Harzoff, Economic Development Manager, 808-5385

Please include this supplemental material in your agenda packet. This material will also be published to the City=s Intranet. For additional information, contact the City Clerk Department at Historic City Hall, 915 I Street, First Floor, Sacramento, CA 95814-2604 B (916) 808-7200.

**REDLINED - Attachment 1**  
**REDEVELOPMENT AGENCY OF THE**  
**CITY OF SACRAMENTO**  
**OWNER PARTICIPATION AGREEMENT (OPA)**  
**BUSINESS TERMS**  
**11/30/12/7/07**

**MASTER OPA.** The entire Railyards Project will be subject to a Master OPA, with Subsidiary OPAs to implement actual projects, which provides the Agency Board the discretion over future use of redevelopment resources. The following business terms are specifically intended to guide the preparation of, and will be formalized in the respective agreements described herein.

1. Infrastructure in the Initial Phase of the Project, which includes Phase 1 and Phase 2 as shown in the Development Agreement will be funded under the Initial Phase Infrastructure OPA described below, which is a commitment of the first \$50 million in tax increment as further described below. Such amount is net present value in 2008 dollars, and shall be adjusted annually by a 6% **simplecompounded** inflation rate. Actual amount of commitment is determined as described below.
2. The term "Net TI" means net of statutory pass-throughs, county and Agency administrative costs, housing set-aside funds, and other mandatory charges against TI funds (e.g. ERAF). All future Net TI payments shall be subordinated to the senior rights, if any, for any future bonded indebtedness. The Master OPA will acknowledge that the Agency anticipates that most aspects of the Railyards Project if built out to the full entitlements will have demonstrable financing gaps at the anticipated build-out levels based on the Railyards Specific Plan Public Facilities Financing Plan and the pro-forma analysis of the Railyards Project prepared by Keyser Marston.
3. All remaining Net TI not allocated under the Initial Phase Infrastructure OPA will be available for qualified Developer projects, subject to Agency Board approval. The Net TI funding, after payment under the Initial Phase OPA, will be committed as follows. It is Agency's intent to commit Net TI funds to eligible projects within 3 years from receipt, in accordance with redevelopment law obligations to expend funds to eliminate blight.
  - a. After Agency fulfills its Initial Phase Infrastructure OPA obligations (see below), and fulfills any outstanding obligations incurred for **specificqualified Developer** projects -hereunder, the Agency reserves the right to prioritize the use of the Net TI funds (i.e., 80%

money) to assure development of affordable housing and to meet Agency legal obligations for the Railyards Project Area.

- b. Each project and the Net TI funding allocation must qualify as a redevelopment project under Community Redevelopment Law and allocation of funding will be subject to a subsidiary OPA.
  - c. Except for the reservation in a. above, for the allocation of Net TI funding, priority will be given to Railyards Project public facilities financing, Developer-proposed affordable housing projects, Central Shops rehabilitation, and public parking facilities qualified to receive redevelopment funding.
  - a. Rights to receive Net TI generated from any portion of the property that is sold by Developer will be transferred to that purchaser, which may apply and will have priority for allocation of those Net TI funds and if not used by that purchaser within the same 3 year period, those Net TI funds will also be released from the Master OPA obligation. However, the Developer can still apply for an allocation of those Net TI funds if not allocated to the purchaser.
4. Low and moderate housing set-aside (20%) funds generated by the Railyards Development Project will be provided to first meet the Developer's inclusionary ordinance obligations imposed by the City and the Community Redevelopment Law. Only after all such obligations are met would the housing set-aside funds generated within the Railyards be available for other affordable housing projects, except as follows. It is the Agency's intent to commit low and moderate housing set-aside funds to eligible projects within 3 years from receipt. If Developer fails to propose a project within 3 years of notification of available funds, the Agency reserves the right to solicit other affordable housing development proposals, for which Developer may also submit a proposal, individually, or with an affordable housing partner.
  5. Notwithstanding the lack of sufficient affordable housing set-aside funds, Developer must nonetheless meet all of the Agency's Community Redevelopment Law housing production/inclusionary requirements for the Railyards development based on the level of housing developed within the Railyards.
  6. If in the opinion of the Chief Building Official of the City, there is an immediate and imminent threat of structural collapse of any of the Central Shops, Developer must take appropriate steps to stabilize the Central Shops from failure. This may include temporary support of walls and temporary protection of roofs if such structures are in immediate jeopardy

- of failing. Such actions would be considered temporary remediation steps not subject to SHPO or SOI standards to the extent permitted by law.
7. Developer shall enter into reciprocal easement agreements with the City for the Intermodal Tunnel Entrance Building and Market Plaza no later than at the time of completion of the Market Plaza or 5<sup>th</sup>/6<sup>th</sup> Streets Public Parking Garage whichever occurs first, as those projects are described in the Development Agreement and the Railyards Project entitlements. The Developer shall also meet its obligations under the Track Relocation Agreement.
  8. Developer must pay prevailing wages and undertake public bidding on all public works projects funded with Net TI funds, to the extent those obligations are defined in the Labor Code and Public Contract Code.
  9. Developer must indemnify Agency and City for any claims for prevailing wages, whether the claims are filed against public works projects or private development projects, including any penalties, charges, costs, and defense costs resulting from such claims. Unless expressly released by Agency in its sole discretion for the specific project, the indemnity obligation stays with Developer irrespective of subsequent sale of any of the Railyards property. Developer shall not be responsible for indemnification of the Agency for development undertaken by an approved assignee or transferee of Developer where such assignee or transferee enters into a separate OPA and indemnity with the Agency.
  10. All Agency funding obligations are limited to Net TI as it is received and payments to Developer will not be owed until after Agency's actual receipt of the Net TI funds.
  11. A default of the Development Agreement or the Initial Phase Infrastructure OPA is a default of the Master OPA, subject to applicable cure rights.

#### **INITIAL PHASE INFRASTRUCTURE OPA**

1. The Net TI funding will be available to Developer for the qualified infrastructure designated in the attached list. Agency agrees that this list will be modified at the request of the Developer if additional infrastructure is required solely to ~~the extent required to~~ satisfy the funding commitments made by the State under applicable infrastructure bond programs and an applicable funding agreement. In any event, the parties may agree to further changes in the list of qualified infrastructure
2. Agency will reimburse Developer for not more than \$50,000,000 (as adjusted) of actual cost of such qualified infrastructure after it is

constructed. This cap shall be adjusted annually from the effective date of the Initial Phase OPA by the amount of a 6% simplecompounded inflation factor annually. Reimbursement for qualifying infrastructure shall be obligated at the time of the completion of construction of a given piece of qualifying infrastructure, subject to the limitations described below.

3. Developer shall have during the initial term of the development agreement with the City of Sacramento, ten years from ~~the effective date~~track relocation, to vest Agency's obligations under the Initial Phase Infrastructure OPA. To vest the OPA, Developer must complete the same level of development as required for vesting ~~of in~~ the City Railyards DA. If Developer fails to vest its rights under the City Railyards DA, the Agency's obligations under the Initial Phase Infrastructure OPA will be terminated. Regardless of whether the Developer vests its rights under this OPA it is the Agency's intent to start reimbursing the developer as net TI revenues are received, subject to the terms herein.
4. In no event shall Agency be obligated to reimburse Developer additional Net TI funds under this OPA for infrastructure constructed more than 15 years after the effective date, whether or not the full \$50,000,000 (as adjusted) Agency commitment has been reimbursed.
5. Reimbursement will only be made from Net TI actually received by the Agency from the property taxes generated by the Developer's development of the Initial Phase properties. The Agency's obligation to actually pay reimbursement under this OPA shall begin at the time Net TI is actually received. To the extent the Net TI funds from the Developer's cumulative Initial Phase development are inadequate to fully reimburse the Developer, the Developer shall forego further reimbursement.
6. A default of the Development Agreement or the Master OPA is a default of the Initial Phase Infrastructure OPA, subject to applicable cure rights.

## 7. DESIGNATED INFRASTRUCTURE LIST

1. 5<sup>th</sup> Street from H Street to Railyards Boulevard
2. Railyards Boulevard from Jibboom Street to 7<sup>th</sup> Street
3. Expansion of 7<sup>th</sup> Street from H Street to Railyards Boulevard
4. 6<sup>th</sup> Street from H Street to Railyards Boulevard
5. Wet and dry utilities to be placed within the right of way of any qualifying streets
6. The storm drainage detention facility (cistern), pump station and outfall
7. 5<sup>th</sup> and 6<sup>th</sup> Street Public Parking Garage
8. Car Shop #3 and Paint Shop Renovation
9. Market Plaza (Parcels 21a and 21b) between Car Shop #3 and Paint Shop
10. Intermodal Tunnel Gateway Structure (Parcel 22)
11. Pedestrian Access Improvements between the 5<sup>th</sup> and 6<sup>th</sup> Public Parking Garage and the Intermodal Tunnel North Entrance

(The Developer has indicated a desire to expand the above list. Additional proposed infrastructure shall be subject to agreement by Agency staff and ultimately the Agency Board as part of the OPA.)

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