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MARCH 22, 2005

IGNACIO DE LA FUENTE, PRESIDENT  
CITY COUNCIL  
OAKLAND, CALIFORNIA

PRESIDENT DE LA FUENTE AND MEMBERS OF THE CITY COUNCIL

**SUBJECT: RESOLUTION AUTHORIZING AN OWNER PARTICIPATION AGREEMENT WITH GRAY AND REYNOLDS PROPERTIES, INC., AND A LIMITED REBATE OF FUTURE SALES TAXES FROM BOAT TENANTS TO ASSIST IN THE DEVELOPMENT FINANCING OF A MIXED-USE BOAT MALL AND OFFICE PROJECT AT 1211 EMBARCADERO DRIVE, AND AUTHORIZING ANNUAL AGENCY TAX REBATE PAYMENTS FOR THE PROJECT**

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### PURPOSE AND SCOPE

In accordance with the Measure H Charter Amendment, which was passed by the voters at the General election of November 5, 1996, we have made an impartial financial analysis of the accompanying Proposed Resolution and Agenda Report. In making our analysis, we met with Redevelopment Agency staff and also obtained additional information and clarification.

The City Auditor is elected by the citizens of Oakland to serve as an officer in charge of an independent department auditing City government activities. The independence of the City Auditor is established by the City Charter.

Since the Measure H Charter Amendment specifies that our impartial financial analysis is for informational purposes only, we did not apply Generally Accepted Government Auditing Standards as issued by the Comptroller General of the United States. Moreover, the scope of our analysis was impaired by Administrative Instruction Number 137, effective May 21, 1997, which provides only two (2) weeks for us to plan, perform and report on our analysis. Due to this time constraint, we did not verify data contained in the Proposed Resolution and Agenda Report.

## SUMMARY

The Proposed Resolution involves redevelopment of a vacant site at 1211 Embarcadero Drive. The project includes the construction of an office building by Gray and Reynolds Properties, Inc. (Developer) and renovation of the East Bay Trail along the length of the area. The office building will be designed to accommodate two boat dealerships with features such as boat showrooms and waterfront access. The remainder of the building will consist of a café and general office space.

The total amount of building space available for lease is 24,319 square feet. There are three committed tenants if the project is approved. Two of these, Delta Pacific Yachts and Olympic Boat Centers, will occupy each of the two boat dealerships. The third, Gray and Reynolds Properties, will lease general office space. These commitments represent 38% occupancy of the building in terms of square footage. The remainder will be made available to prospective tenants.

## FISCAL IMPACT

Based on projections, approval of the Proposed Resolution can result in additional tax and business license fee revenues for the City. The City will agree to rebate to the Developer up to 85% of the sales taxes generated by the two boat dealerships.

Attachment A to the Agenda Report lists new sales tax and business license fee revenues from the two boat dealerships and the incremental property tax revenue from the new building for a ten-year period. The projected amounts of these types of revenues to the City in year 1 are:

<u>Description</u>	<u>Amount</u>
New sales taxes from boat dealerships, net of the sales tax rebate	\$23,100
Business license fees	24,000
Incremental property tax revenue	<u>52,800</u>
	<u>\$99,900</u>

These amounts are projected and may not materialize. Over the ten-year period, the total amount of these annually projected revenues is \$1,789,182.

Also listed among the benefits of the redevelopment project stated in the Agenda Report are:

- Reduction of blighted conditions in the area.
- The potential for later redevelopment of more boat dealerships in the adjacent area.
- Renovation of a portion of the East Bay Trail.
- Meeting objectives of the Redevelopment Plan of the Central City East Redevelopment Project such as attracting new businesses, promoting job growth, and improving open space in the area.

**SALES TAX REBATE**

The construction budget is \$6.6 million. The Developer will secure financing for the project. Under the terms of the Proposed Resolution, the City will enter into a sales tax rebate agreement with the Developer. The amount of the rebate is the sum of the payments equal to the net present value of \$1,200,000 at a 6% discount rate. The City will have no equity position in the building. If the City does not rebate the sales tax revenues, then the Redevelopment Agency will be required to do so. Therefore, according to the Agenda Report, the agreement is structured to have no risk to the City in this regard.

The Agenda Report states, "The construction lender's commitment to finance Phase I is contingent upon the City sharing the taxes to be generated from the boat dealers as proposed." (Page 8). Our limited analysis of the sales tax rebate agreement is shown in Exhibit 1.

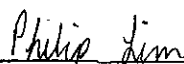
We asked Agency staff whether any projects within the past five years had sales tax rebate agreements conceptually similar to the Proposed Resolution. They provided two examples: Negherbon Auto Center (Resolution 99-40 C.M.S., approved on 7/27/1999) and Connell Auto Center (Resolution 02-01 C.M.S., approved on 1/29/2002). According to staff, both agreements are currently invalid and obsolete. The targets needed to qualify for the rebate were not reached in one of the agreements. In the other agreement, terms were not complied with and all money was repaid with interest.

**CONCLUSION**


Based on projections, approval of the Proposed Resolution can result in additional revenues for the City. The redevelopment project also includes renovation of a segment of the East Bay Trail for public use.

The City will indirectly pay a portion of the construction cost through a sales tax rebate agreement with the Developer. Before approving the Proposed Resolution, the Council should consider the outcome of the two previous sales tax rebate projects and any other similar agreements. Also, the sales tax rebate has no fixed term. Payments can continue beyond ten years if revenue projections provided by staff do not materialize.

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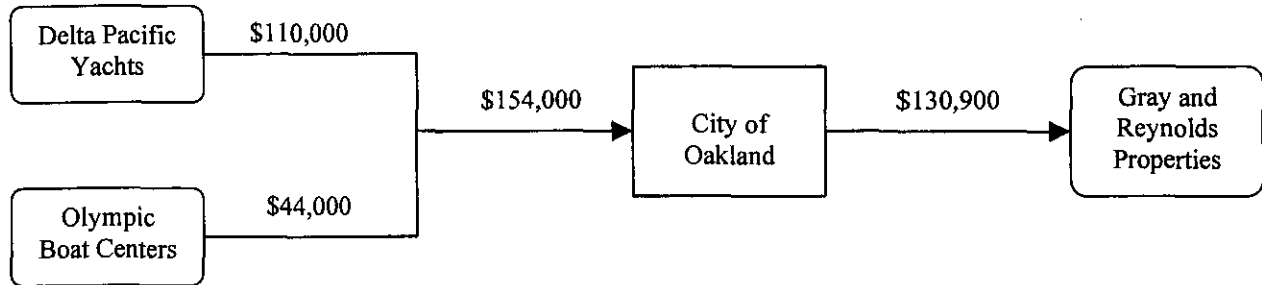
  
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City Auditor

Report completion date:  
March 14, 2005

Attachment

Exhibit 1

The sales tax rebate process, based on projections for year 1 shown in Attachment A of the Agenda Report, is summarized as follows:



1. The boat dealerships generate new sales tax revenue for the City totaling \$154,000 (column C, row 20 of Attachment A) on new sales revenues of \$15,400,000 resulting from the redevelopment.
2. The City remits \$130,900 (column D, row 20) to the Developer. This amount represents 85% of the \$154,000 in new sales tax revenue.
3. Payments from the City to the Developer would continue in this fashion subject to certain dollar limits, with varying sales tax revenue projections in future years, until a net present value amount of \$1,200,000 is reached.
4. The equation for calculating when the net present value of \$1,200,000 is reached is as follows:

$$\frac{P_1}{(1.06)^1} + \frac{P_2}{(1.06)^2} + \frac{P_3}{(1.06)^3} + \dots + \frac{P_n}{(1.06)^n} = \$1,200,000$$

P = Annual sales tax payment amount from the City to the Developer  
 n = The last period of the sales tax payment

5. The City is projected to make a sales tax payment of \$173,400 (column D, row 21) to the Developer in year 2.
6. The net present value of these first two years of payments is as follows:

$$\frac{\$130,900}{(1.06)^1} + \frac{\$173,400}{(1.06)^2} = \$277,816$$

Exhibit 1 (continued)

7. Up to year 2, the net present value is \$277,816. Payments from the City would continue until the sum of the net present value of these payments eventually equals \$1,200,000 in future years using the equation in line 4.
8. By contrast, the nominal value of the first two years of sales tax payments is:

$$\$130,900 + \$173,400 = \$304,300$$

9. The following table shows the equal sum of all ten annual payments at the nominal and discounted values. The ten payments are based on projections provided in Attachment A of the Agenda Report.

	Nominal amount	Amount at 6% discount rate
Sales tax payments from City to Developer	\$1,640,402	\$1,220,022

10. The 6% discount rate ensures a certain real rate of payments to the Developer for the risks incurred in the redevelopment project.

According to the Agenda Report, the City is not obligated to make the sales tax payments. However, the Redevelopment Agency is obligated to do so in the event the City does not. There is no time limit to making the annual payments. The payments are projected to be made until year 10. If sales tax revenues do not materialize according to the projections, then payments will continue after year 10 until the net present value of \$1,200,000 is realized.