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County of Alameda

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By: Curtiyah Ganter,
Deputy Clerk

1 MANATT, PHELPS & PHILLIPS, LLP
BARRY W. LEE (Bar No. 088685)
2 Email: bwlee@manatt.com
CHRISTOPHER L. WANGER (Bar No. 164751)
3 Email: cwanger@manatt.com
JUSTIN JONES RODRIGUEZ (Bar No. 279080)
4 Email: jjrodriguez@manatt.com
MISA EIRITZ (Bar No. 307513)
5 Email: meiritz@manatt.com
One Embarcadero Center, 30th Floor
6 San Francisco, California 94111
Telephone: (415) 291-7400
7 Facsimile: (415) 291-7474

8 DOUGLAS J. SMITH (*Pro Hac Vice*)
Email: djasmith@manatt.com
9 1050 Connecticut Ave. NW, Suite 600
Washington, DC 20036
10 Telephone: (202) 585-6508
Facsimile: (202) 585-6600

11 *Attorneys for Plaintiff and Counter-Defendant*
OAKLAND BULK AND OVERSIZED TERMINAL, *Plaintiff*
12 OAKLAND GLOBAL RAIL ENTERPRISE, LLC, and *Counter-*
Defendant CALIFORNIA CAPITAL & INVESTMENT GROUP

13 SUPERIOR COURT OF CALIFORNIA

14 IN AND FOR THE COUNTY OF ALAMEDA

15
16 OAKLAND BULK AND OVERSIZED
TERMINAL, LLC, a California limited liability
17 company and OAKLAND GLOBAL RAIL
ENTERPRISE, LLC, a California limited
18 liability company,

19 Plaintiffs,

20 v.

21 CITY OF OAKLAND, a California municipal
corporation,

22 Defendant.

23 CITY OF OAKLAND,

24 Counter-Plaintiff,

25 v.

26 OAKLAND BULK AND OVERSIZED
TERMINAL, LLC, and CALIFORNIA
27 CAPITAL INVESTMENT GROUP

28 Counter-Defendants.

Consolidated Case Nos. RG18930929 /
RG20062473

Unlimited Civil Case / Assigned to
Judge Noël Wise, Dept. 514

**PLAINTIFFS' SUMMARY DAMAGES
TABLES (REVISED)**

Trial Date: July 10, 2023 (Phase 1)
November 28, 2023 (Phase 2)

Table 1: Total Actual Damages Sought by OBOT and OGRE with Specific Performance Award

Summary of Total Actual Damages - Specific Performance Award					
Source	Category	February 2016 through May 2018	June 2018 through December 2023	January 2024 through February 2024	Total
Exhibit A	Actual Out-of-Pocket Damages	\$ 4,600,000	\$ 600,000	\$ -	\$ 5,200,000
Exhibit B	OBOT Actual Damages	-	19,300,000	-	19,300,000
Exhibit C	OGRE Actual Damages	-	(5,400,000)	-	(5,400,000)
	Total Actual Damages:	\$ 4,600,000	\$ 14,500,000	\$ -	\$ 19,100,000

Table 2: Actual Damages (Out-of-Pocket) Sought by OBOT with Specific Performance Award

OBOT Summary of Actual Out-of-Pocket Damages - Specific Performance Award			
		February 2016 through May 2018	June 2018 through December 2023
	<i>Actual Out-of-Pocket Damages</i>		
	50% of Legal and Professional Fees incurred related to Federal trial	\$ 4,618,364	\$ 331,740
	Payroll - Additional staff time and expenses incurred from the breach date through November 2021 due to the City's breaches	-	274,701
	Extra Costs due to Illegal Dumping - K-Rail Barriers	-	5,000
	Extra Costs due to Illegal Dumping - Repair & Maintenance	-	37,982
	<i>Total Actual Out-of-Pocket Damages:</i>	\$ 4,618,364	\$ 649,424
	Rounded:	\$ 4,600,000	\$ 600,000

Table 3: Actual Damages (Lost Rental Income) Sought by OBOT with Specific Performance Award

OBOT Summary of Actual Damages - Specific Performance Award		
		June 2018 through December 2023
<i>But-for Revenues (OBOT's Lost Rents from ITS and OGRE)</i>		
ITS - Ground Lease Base Rent	\$	1,588,211
ITS - Sublease Base Rent - Minimum Payment		8,250,000
ITS - Additional Payment based on volume		-
ITS - Balloon Rent		13,640,000
ITS - Lease Take Down Payments		11,062,279
OGRE - Base Rent		1,182,957
<i>Subtotal But-for Revenues:</i>		35,723,447
<i>Less: Actual (Mitigating) Revenues</i>		(11,739,989)
<i>Net Lost Revenues:</i>		23,983,458
<i>But-for Expenses</i>		
Ground Lease Base Rent		(3,722,103)
Property Tax		(41,423)
Insurance		(7,940)
Landscaping, Upkeep and Maintenance on "sliver parcels"		(12,103)
General and Administration		(551,058)
CFD Tax		(344,095)
<i>Subtotal: Net But-for Expenses</i>		(4,678,723)
<i>Subtotal: Actual Damages</i>		19,304,735
Discount for Present Value of Future Cash Flows:		-
<i>Present Value:</i>		19,304,735
	Rounded:	\$ 19,300,000
Primary Inputs:		
<i>Revenue Inputs:</i>		
ITS - Ground Lease Base Rent	ITS Sublease, Section 2.2	
ITS - Sublease Base Rent - Minimum Payment	ITS Sublease, Sections 2.4 and 2.13	
ITS - Additional Payment based on volume	ITS Sublease, Section 2.4	
ITS - Balloon Rent	ITS Sublease, Section 2.5	
ITS - Lease Take Down Payments	ITS Sublease, Section 2.13	
OGRE - Base Rent	OGRE Sublease, Section 4.1	
<i>Expense Inputs:</i>		
Ground Lease Base Rent	OBOT Master Lease, Section 2.2	
Property Tax	Allocation based on acreage	
Insurance	N/A after Year 1 (2018)	
Landscaping, Upkeep and Maintenance	\$2,000 per year	
General and Administration	5% of annual recurring revenues	
CFD Tax	Allocation based on acreage	

Table 4: Actual Damages Sought by OGRE with Specific Performance Award

OGRE Summary of Actual Damages - Specific Performance Award		
		June 2018 through December 2023
Lost Revenues		
Last Mile Service paid by U.P.	\$	-
Indexing paid by ITS		-
Subtotal But-for Revenues:		-
Less: Actual (Mitigating) Revenues		-
Net Lost Revenues:		-
Less: Anticipated Expenses		
Base Rent		(1,182,957)
CFD Tax		(1,184,759)
Property Tax		(142,624)
Per Car Port Fees (Bulk Unit Trains)		-
Locomotive Lease Costs		-
Labor and benefits		-
Purchased services		-
Diesel fuel used in train operations		-
Casualties and insurance		-
Materials		-
Other expenses		-
Loan Repayment		(67,277)
Rail Improvements		(2,823,425)
Subtotal: Net But-for Expenses		(5,401,042)
Subtotal: Actual Damages		(5,401,042)
Discount for Present Value:		-
Present Value:		(5,401,042)
Rounded:	\$	(5,400,000)
Primary Inputs:		
Base Rent	OGRE Sublease, Section 4.1	
CFD Tax	Allocation based on acreage	
Property Tax	Allocation based on acreage	
Loan Repayment	Rail improvement financing	
Rail Improvements	Rail improvement construction begins in 2023	

Table 5: Total Actual Damages Sought by OBOT and OGRE with Legal Award

Summary of Total Actual Damages - Legal Award					
Source	Category	February 2016 through May 2018	June 2018 through December 2023	January 2024 through February 2024	Total
Exhibit D	Actual Out-of-Pocket Damages	\$ 4,600,000	\$ 600,000	\$ -	\$ 5,200,000
Exhibit E	OBOT Actual Damages	-	19,300,000	90,500,000	109,800,000
Exhibit F	OGRE Actual Damages	-	(5,400,000)	50,000,000	44,600,000
	Total Actual Damages:	\$ 4,600,000	\$ 14,500,000	\$ 140,500,000	\$ 159,600,000

Table 6: Actual Damages (Out-of-Pocket) Sought by OBOT with Legal Award

OBOT Summary of Actual Out-of-Pocket Damages - Legal Award				
			February 2016 through May 2018	June 2018 through December 2023
		<i>Actual Out-of-Pocket Damages</i>		
		50% of Legal and Professional Fees incurred related to Federal trial	\$ 4,618,364	\$ 331,740
		Payroll - Additional staff time and expenses incurred from the breach date through November 2021 due to the City's breaches	-	274,701
		Extra Costs due to Illegal Dumping - K-Rail Barriers	-	5,000
		Extra Costs due to Illegal Dumping - Repair & Maintenance	-	37,982
		<i>Total Actual Out-of-Pocket Damages:</i>	\$ 4,618,364	\$ 649,424
		Rounded:	\$ 4,600,000	\$ 600,000

Table 7: Actual Damages (Lost Rental Income) Sought by OBOT with Legal Award

OBOT Summary of Actual Damages - Legal Award		
	June 2018 through December 2023	January 2024 through February 2024
<i>But-for Revenues (OBOT's Lost Rents from ITS and OGRE)</i>		
ITS - Ground Lease Base Rent	\$ 1,588,211	\$ 66,562,927
ITS - Sublease Base Rent - Minimum Payment	8,250,000	463,862,964
ITS - Additional Payment based on volume	-	135,848,591
ITS - Balloon Rent	13,640,000	74,800,000
ITS - Lease Take Down Payments	11,062,279	-
OGRE - Base Rent	1,182,957	37,468,697
<i>Subtotal But-for Revenues:</i>	35,723,447	778,543,179
<i>Less: Actual (Mitigating) Revenues</i>	(11,739,989)	-
<i>Net Lost Revenues:</i>	23,983,458	778,543,179
<i>But-for Expenses</i>		
Ground Lease Base Rent	(3,722,103)	(120,807,847)
Property Tax	(41,423)	(1,158,921)
Insurance	(7,940)	-
Landscaping, Upkeep and Maintenance on "sliver parcels"	(12,103)	(364,677)
General and Administration	(551,058)	(35,013,017)
CFD Tax	(344,095)	(10,367,560)
<i>Subtotal: Net But-for Expenses</i>	(4,678,723)	(167,712,022)
<i>Subtotal: Actual Damages</i>	19,304,735	610,831,157
Discount for Present Value of Future Cash Flows:	-	(520,344,152)
<i>Present Value:</i>	19,304,735	90,487,005
Rounded:	\$ 19,300,000	\$ 90,500,000
Primary Inputs Once Operational:		
	Coal	Soda Ash
Terminal Volume/Year (Metric Tons)	5,000,000	1,500,000
CPI Growth Rate (Annual)	3%	3%
Discount Rate	12%	12%
<i>Revenue Inputs:</i>		
ITS - Ground Lease Base Rent	ITS Sublease, Section 2.2	
ITS - Sublease Base Rent - Minimum Payment	ITS Sublease, Sections 2.4 and 2.13	
ITS - Additional Payment based on volume	ITS Sublease, Section 2.4	
ITS - Balloon Rent	ITS Sublease, Section 2.5	
ITS - Lease Take Down Payments	ITS Sublease, Section 2.13	
OGRE - Base Rent	OGRE Sublease, Section 4.1	
<i>Expense Inputs:</i>		
Ground Lease Base Rent	OBOT Master Lease, Section 2.2	
Property Tax	Allocation based on acreage	
Insurance	N/A after Year 1 (2018)	
Landscaping, Upkeep and Maintenance	\$2,000 per year	
General and Administration	5% of annual recurring revenues	
CFD Tax	Allocation based on acreage	

Table 8: Actual Damages Sought by OGRE with Legal Award

OGRE Summary of Actual Damages - Legal Award			
		June 2018 through December 2023	January 2024 through February 2082
Lost Revenues			
	Last Mile Service paid by U.P.	\$ -	\$ 2,176,727,871
	Indexing paid by ITS	-	380,320,407
	Subtotal But-for Revenues:	-	2,557,048,278
	Less: Actual (Mitigating) Revenues	-	-
	Net Lost Revenues:	-	2,557,048,278
Less: Anticipated Expenses			
	Base Rent	(1,182,957)	(37,468,697)
	CFD Tax	(1,184,759)	(35,696,690)
	Property Tax	(142,624)	(3,990,296)
	Per Car Port Fees (Bulk Unit Trains)	-	(33,405,362)
	Locomotive Lease Costs	-	(58,612,152)
	Labor and benefits	-	(823,977,401)
	Purchased services	-	(129,319,768)
	Diesel fuel used in train operations	-	(181,502,380)
	Casualties and insurance	-	(62,895,332)
	Materials	-	(123,006,131)
	Other expenses	-	(160,211,402)
	Loan Repayment	(67,277)	(5,710,665)
	Rail Improvements and Other CapEx	(2,823,425)	(15,671,741)
	Subtotal: Net But-for Expenses	(5,401,042)	(1,671,468,017)
	Subtotal: Actual Damages	(5,401,042)	885,580,261
	Discount for Present Value:	-	(835,559,781)
	Present Value:	(5,401,042)	50,020,480
	Rounded:	\$ (5,400,000)	\$ 50,000,000
Primary Inputs Once Operational:			
		Coal	Soda Ash
	Terminal Throughput - Rail Cars/Year	45,448	16,640
	Last Mile Service revenue per Car	\$ 200	\$ 200
	Indexing Revenue per Unit Train	\$ 2,800	\$ 5,600
	Average Operating Expenses as a Percentage of Revenue	65%	65%
	CPI Growth Rate (Annual)	3%	3%
	Discount Rate	12%	12%