



AGENDA REPORT

TO: Edward D. Reiskin
City Administrator

FROM: Elizabeth A. Lake
Assistant City Administrator

SUBJECT: Response to Waterfront Ballpark
District Study Prepared for PMSA

DATE: November 30, 2022

City Administrator Approval

Date: Dec 1, 2022

RECOMMENDATION

Staff Recommends That The City Council Receive An Informational Report From City Staff Regarding Documents from Maritime Industry Groups on Potential Economic Issues Related to The Oakland Waterfront Ballpark District At The Howard Terminal Proposed By The Oakland Athletics including A Report On Analysis Conducted By: Professor Nola Agha, Ph.D., The University Of San Francisco, Professor Of Sport Management, Report Entitled “Evaluation Of The Revenues, Costs, And Impacts Of The Proposed Oakland Waterfront Ballpark District At Howard Terminal On The City Of Oakland,” And Summary of the Report by Professor Agha.

BACKGROUND

The City of Oakland (“City”) received a report commissioned by The Pacific Merchant Shipping Association to assess the estimated revenues, costs, and impacts of the proposed Oakland Waterfront Ballpark District at Howard Terminal (the “PMSA Report”). The report was prepared by Nola Agha, a professor of sports finance and economics at the University of San Francisco. Professor Agha’s analysis relied upon assumptions about a hypothetical deal informed by various public documents, including staff reports prepared by the City and a fiscal impact analysis prepared by Century Urban, LLC (“Century | Urban”). Professor Agha did not contact either Century | Urban or City staff to confirm or clarify any such assumptions before writing her report. Century | Urban, together with City staff, has reviewed the PMSA Report and prepared the following comments to briefly clarify and correct assumptions and conclusions that are inconsistent with the proposed transaction structure as directed by the City Council, as well as projected revenues and costs. In addition, this report provides brief responses to the questions listed in the section titled “Key Questions” at the end of the PMSA Report.

Overall, it is important to note that while the PMSA Report correctly acknowledges that due to current economic conditions, the proposed project – if it is approved – may build out more slowly and/or at a lower density than that proposed by the Oakland Athletics (“A’s”), the report mischaracterizes the risk this poses to the City’s General Fund. The City administration has never proposed, nor has the City Council ever directed staff to utilize existing General Fund revenues to fund any project costs, including off-site infrastructure costs or the increased costs

of providing City services incurred as the result of any new development. The City Council has instead directed staff to utilize taxes directly generated by the project itself and pursue “the use of Federal, State, Regional, and other funding sources for the offsite transportation infrastructure” and “protect the City's General Fund”. Based on this direction, staff has been working to negotiate a deal structure that, if approved, would not negatively impact the City’s General Fund.

Provided below are responses to key statements made throughout the report, organized by topic.

ANALYSIS AND POLICY ALTERNATIVES

IFD Financing for On-Site Infrastructure

The PMSA Report asserts that Infrastructure Financing Districts (IFDs) are a “*risky and usually unsuccessful method to provide sports subsidies*” (PMSA Report, p.3). This statement is flawed for the following reasons:

An IFD has never been considered as a method to finance or subsidize the proposed ballpark at the former Howard Terminal. As indicated in the [July 2021 Term Sheet](#) (Term Sheet) approved by the City Council, the ballpark would be privately financed, constructed and operated. The A’s would also fund and construct all on-site public infrastructure. Any risk associated with funding on-site infrastructure costs, including delays and cost increases or overruns, would be borne by the A’s. Under the contemplated transaction structure, the City’s obligations would be limited to contributing any tax increment *actually generated directly from development of the proposed project* to the IFD. That tax increment would then reimburse the developer, in whole or in part, depending upon the availability of funds, for approved on-site public infrastructure, parks, and affordable housing constructed in excess of local requirements, none of which include the new ballpark to be constructed by the A’s using private capita. In fact, IFDs have already been successfully used as financing vehicles for public infrastructure of communitywide significance at San Francisco’s Mission Rock and Treasure Island projects.

The PMSA Report also asserts that “*academic research consistently finds no economy-wide net benefits of new stadiums because any potential gains are nullified by the considerable unanticipated and inconspicuous costs*” (PMSA Report, p. 4). This assertion may well be accurate but is not directly relevant to this situation, as most of the studies cited in the report regarding the economic benefits of sports stadiums involved only a sports stadium, with a few projects involving limited ancillary development. The Waterfront Ballpark District is proposed to include substantial ancillary development, including up to 3,000 residential units, 1.5 million square feet of commercial office, 400 hotel rooms, 270,000 square feet of retail, and a performing arts center, in addition to a sports stadium. As such, conclusions regarding the potential economic or fiscal impacts of the proposed Waterfront Ballpark project should not be drawn based on these noncomparable studies.

Additionally, while the proposed Waterfront Ballpark District project [is anticipated to generate indirect economy-wide net benefits](#), the amount of any such indirect net benefits is too speculative to quantify with any precision. As such, the 2021 Fiscal Impact Report estimated

only the *direct net fiscal benefits* projected to be generated from development of the proposed project and made no assumptions with regard to the indirect economic benefits that may or may not result from development of the proposed project. Furthermore, as described in greater detail below, measures have been identified and will be implemented to ensure that negative externalities such as traffic congestion, which might otherwise constrain economic activity in the project vicinity on game days, are adequately addressed. The City has also focused specifically on identifying all potential onsite and offsite infrastructure capital and ongoing operational costs, along with appropriate funding sources to offset such costs. While additional funding sources still need to be secured, the City's intent, based upon the Council's direction, is to minimize the potential for incurring "unanticipated and inconspicuous costs."

The PMSA Report erroneously concludes that "[o]ff-site property tax growth is assumed to be 'caused by' the new sports development" (PMSA Report, p. 13). This statement thoroughly misrepresents the City's well-documented position with regard to growth in off-site property tax revenues. In the [July 1, 2021 Agenda Report](#), City staff recommended against expansion of the IFD boundaries beyond the former Howard Terminal, because in part "an IFD over the adjacent neighborhoods is likely to capture at least some naturally occurring incremental property tax revenues that, absent the Project, would otherwise flow to the City's General Fund." The July 2021 Agenda Report went on to state that "[w]hile it is reasonable to assume that construction of the Ballpark and the substantial ancillary development contemplated for Howard Terminal would accelerate development on neighboring blocks, it is impossible to parse the degree to which the growth in assessed values within that area would be due to the City's independent planning efforts and 'background' growth versus the 'catalytic' effects of the proposed Project." As a result, no anticipated increases in off-site property tax revenues were included in the 2021 Fiscal Impact Report for the proposed project, nor are off-site property tax revenues proposed to be utilized as part of the IFD. Therefore, any increases in off-site property tax revenues indirectly generated by the new development (as supported by studies cited in the PMSA Report) would be *in addition to* those direct increases in annual net revenues previously projected in the 2021 Fiscal Impact Report.

City's Obligation for Off-Site Infrastructure Improvements

The PMSA Report inaccurately estimates the cost of off-site improvements and misstates the City's obligation to fund these costs.

With respect to the cost of off-site improvements, the PMSA Report notes "*applying inflation calculations (23% from 2021 to 2022 and 7% thereafter) to the most recent detailed infrastructure estimates (\$500 million) and adding in potential SCMs [Seaport Combability Measures] and environmental mitigations (\$100 million) implies the total cost of required off-site infrastructure could easily exceed \$850 million by 2025*" (PMSA Report, p. 4). This statement is incorrect for several reasons.

First, the PMSA Report's assertion that off-site infrastructure cost estimates are understated and do not include cost escalation factors is inaccurate and without basis. As noted on page 3 of the [September 2022 Memorandum](#), among the adjustments made to the off-site infrastructure cost projections originally provided by the A's to the City in 2021, "*inflation factors were increased to reflect recent trends.*" To determine the most appropriate cost escalation rate, City

staff has relied upon a variety of sources, including the [Annual Infrastructure Construction Cost Inflation Estimate](#) produced by ONESF, San Francisco's Office of Resilience and Capital Planning, which, after a metanalysis of seven national and local construction cost indices, currently recommends an escalation rate of 6% be utilized for planning purposes for local public works projects.

Further, the source of the \$500 million and \$100 million estimates for off-site infrastructure and Seaport Compatibility Measures (SCMs) is unclear; they appear to be best guesses or "swags". As noted in Port Executive Director Danny Wan's [December 16, 2021 letter](#) to the Oakland City Council regarding environmental analysis of the contemplated SCMs, "[r]ecommended SCM's have been analyzed in the Draft EIR [Environmental Impact Report] as elements of the proposed project or as mitigation measures." Because all recommended SCMs were analyzed in the Environmental Impact Report (EIR), there is no additional cost of the SCMs; rather, these projects and costs are already included in the City's off-site infrastructure estimates. By starting from hypothetical off-site infrastructure costs, adding SCM costs already included in the City's off-site infrastructure estimates, and then escalating costs that already included reasonable consensus estimates of inflation, the PMSA Report arrives at an estimate of \$850 million for off-site infrastructure, which likely overstates the off-site infrastructure costs by more than \$250 million.

With respect to risks to the City, the PMSA Report asserts that the City's potential off-site infrastructure obligation would rely upon issuance of an approximately \$350 million Limited Obligation Bond (LOB) and poses a risk to the General Fund. Both assertions are incorrect. Page 3 of the report states *"the current plan is to issue a Limited Obligation Bond (LOB) that pledges incremental tax receipts generated within Howard Terminal, a proposal akin to tax increment financing that is as risky and as typically unsuccessful as the IFD."* Page 25 of the report concludes that *"neither the proposed \$350 million LOB nor the projected \$10.5 - 12.4 million in annual net tax revenues from Howard Terminal development are sufficient to pay for the estimated \$850 million direct cost of the off-site infrastructure."*

As noted in the September 2022 Memorandum, should the project be approved, the off-site infrastructure costs would be primarily funded through State, Federal and Regional infrastructure grants, with only any remaining gap or unexpected cost overruns funded through a LOB secured by incremental project-generated net fiscal revenues. This is because, as correctly noted in the PMSA Report, neither the projected increases in annual net tax revenues directly generated by the proposed project nor the proceeds of a LOB secured by those revenues alone would be sufficient to fund the project's off-site infrastructure costs, absent other sources. Therefore, funding for the off-site infrastructure would not rely upon a bond issuance. Further, the City does not anticipate that \$350 million would be available from a LOB. The City estimates that, after setting aside sufficient incremental tax revenues to fund the incremental cost of providing City services to the proposed project's new residents, businesses, workers and visitors, the LOB could generate approximately \$150 million in net proceeds. The PMSA Report's \$350 million LOB estimate is more than double the City's actual estimates of potential LOB proceeds and is not accurate.

In addition, the report inaccurately notes *"only 8% (\$51.8 million) of the City's most recent cost estimate is secured. If \$279.5 million of Port funding is diverted for off-site infrastructure, this*

additional public subsidy raises the percentage to 48% of the City's cost estimate leaving 52% (\$334.6 million) unfunded. Even if the City obtains funding from all other proposed grants (which is highly unlikely) it will still not be sufficient to cover the expected costs leaving a Limited Obligation Bond and the diversion of General Funds as the only current solution" (PMSA Report at p. 26). As of September 2022, the City had identified approximately \$321.5 million in funding for off-site infrastructure, which included \$259.5 million in State funding. In the intervening months, the City continues to pursue additional grant funding for off-site infrastructure, that would bring the total to approximately \$375 million, which represents approximately two-thirds of the City's current estimate of off-site infrastructure costs (assuming 6% annual inflation to an average construction start year of 2026). While the City is evaluating the use of a LOB to fund some of the remaining costs, the City continues to identify and pursue additional potential sources, and has submitted or will submit, in collaboration with the Port, for approximately \$307 million in additional State and Federal funds in 2022 and early 2023. The total of funds already secured and those currently being sought exceeds the City's current off-site infrastructure cost projections as not all competitive grant applications will prove successful and some successful applications may be only partially funded. It should be noted again that the City has not, as of this writing, entered into an agreement with the A's for development of the proposed project, therefore, at this time, no actual obligations exist on the part of the City related to the proposed project or its off-site infrastructure. Should the project move forward, the City may also elect to limit its off-site infrastructure obligations to only those improvements for which it already has secured funding.

With respect to impact on the General Fund, it is important to note that any LOB financing would be payable only from incremental fiscal revenues (net of expenses) directly generated by the project. No current General Fund revenue would be pledged to the LOB, and the bondholders would have no recourse to other revenues in the City's General Fund in the event that pledged revenues fall short of debt service. In addition, as noted above, the LOB would only be used to the extent other funding sources such as Federal, State and Regional grants are insufficient to fund off-site infrastructure. As the executive summary of the PMSA Report correctly notes, *"the amount, timing, and occupancy of the development will likely be affected by rising inflation, interest rates, and reduced access to capital"* (PMSA Report, p. 3), which could limit the amount of incremental fiscal revenue available to pay LOB debt service, but this would be a risk borne by LOB investors, not City taxpayers.

Finally, the report states that the City's obligation is not defined and is at *"risk of ballooning scope and costs"* (PMSA Report, p. 27). The report further states that *"the Final Environmental Impact Report requires 123 pages of mitigation measures, some of which will occur off-site. Port tenants believe the current list of Seaport Compatibility Measures are insufficient. Without a finalized list that are contractually agreed upon and whose costs have been apportioned, it is not clear how much the SCMs and environmental mitigation will cost and who will pay. The off-site costs are currently the responsibility of the City and could plausibly exceed \$850 million. If expenses rise or revenues fall short of projections, taxpayers will be further responsible for these costs under the current Term Sheet."* The current Term Sheet is non-binding, and thus the City has yet not undertaken any obligations regarding project-related costs. The City has secured and continues to seek outside funding for the off-site infrastructure costs to minimize the need to rely upon project-generated revenues for this purpose. Further, the off-site infrastructure scope is thoroughly defined in the [Final EIR](#) and the Port's December 2021 SCM

letter and included in the City's current estimates of off-site infrastructure costs. As noted above, the report's assertion that the off-site costs "could plausibly exceed \$850 million..." is overstated and incorrect.

Projected Revenues and Community Benefits

The PMSA Report contends that the projection of revenues and community benefits may be overstated due to a potentially slower buildout of the ancillary development or a decrease in the proposed project density. The report states *"all projected tax revenues are estimated based on fully building the maximum number of units and square feet. But macroeconomic factors (inflation, interest rates, access to capital) can potentially reduce or delay the amount built in Howard Terminal. With no minimum building requirements in the current Term Sheet, delays and reductions could reduce tax revenues, funds for community benefits, the Community Fund, and affordable housing units. None of these economic factors will reduce the amount of infrastructure that the public must construct to make the Howard Terminal project accessible – they will only increase the public cost"* (PMSA Report, p. 27).

The 2021 Fiscal Impact Report estimated fiscal impact based on a fully built-out project that maximizes allowable density. The project will be constructed over time, and economic conditions may delay project development or reduce project density, resulting in reduced fiscal revenues to the City. However, as noted above, based on the proposed transaction structure, the risk of reduced fiscal revenues is borne by the developer and/or the LOB investors. Additionally, as the developer would fund on-site infrastructure upfront and be reimbursed from tax increment revenue directly generated from its development of the proposed project, the developer is incentivized to proceed as expeditiously as possible with high-density vertical development. The PSMA Report is correct that a delay or reduction in project development would not reduce the infrastructure needed to provide Oaklanders with safe, sustainable and equitable transportation options to their waterfront, while ensuring that the Seaport can continue to grow and thrive. However, as noted in the November 4, 2022 Agenda Report, the off-site improvements provide benefits to the City, Port and community independent of the proposed project.

To further illustrate the hypothesis that projected revenues may be overstated, the report states *"the enhanced Inner Harbor turning basin appears necessary to maintain OICT operations at current levels. Reclamation of land for the turning basin expansion will reduce the proposed 18 acres of public open spaces at Howard Terminal and could lead to further reductions in promised maximum builds which could further reduce tax revenues"* (PMSA Report, p. 27). While a reclamation of land for the turning basin would reduce the project area, the full entitlement can be built on a smaller footprint, so a reduction in the estimated tax revenue is not inevitable. Full build-out would be less likely in the event that the Port requires more than 9 acres of land for the potential turning basin widening; notably, however, the [Army Corps' Tentatively Selected Plan](#) for the Inner Harbor Turning Basin Widening reflects a take of less than 2.5 acres, or approximately 5% of the total site area.

The report concludes that a reduction to project revenues would result in reduced community benefits as *"many of the benefits in the Community Benefits Agreement derive from increased property tax revenues. If these fall short of expectations for any of the macroeconomic reasons*

in the previous point, promised community benefits and new affordable housing will not be delivered” (PMSA Report, p. 27). Only the implementation of off-site affordable housing strategies would be directly tied to the incremental property tax revenue generated by the project. The City’s proposed 2021 term sheet contemplated a 20% set-aside from all project property tax increment up to a total of \$50 million to fund off-site affordable housing strategies. While a reduction or delay in the project build-out would delay receipt of the full \$50 million, it is highly unlikely that it would reduce the total funding ultimately dedicated to this purpose.

The report notes that the fiscal revenue analysis overstates revenue as some of the economic activity at the Waterfront Ballpark project would come from within the City. The PMSA Report states *“most of the economic activity in the new development will be redistributed from within the City of Oakland leading to net annual gains in City tax collections of \$10.5 to 12.4 million. The City is proposing that those gains be diverted to a LOB that may not necessarily put the General Fund “at risk”, but revenue that would have gone to the General Fund will instead be diverted to pay for Howard Terminal off-site infrastructure” (PMSA Report, p. 27). The PMSA Report makes certain adjustments to the 2021 Fiscal Impact Report fiscal revenue projections to derive its estimate of \$10.5 to \$12.4 million of annual net fiscal revenue as compared to the 2021 Fiscal Impact Report estimate of \$15.5 million in net annual fiscal revenue. For example, the report applies a 50% reduction to the 2021 Fiscal Impact Report utility consumption and business license tax estimates by assuming that 50% of the tenants that will occupy the Howard Terminal project will relocate from existing City buildings. While any new development may, in the short term, draw some tenants, visitors or residents from existing properties and destinations within the City, it is reasonable to assume that the properties vacated by those tenants will not remain permanently vacant; instead, these existing properties and destinations will find new tenants, visitors and residents as businesses expand and populations grow. Thus, occupancy levels Citywide are expected to remain stable, and therefore the estimated City tax capture rate of 50% is unreasonable. In addition, the 2021 Fiscal Impact Report revenue analysis assumed that the City will capture 65% of annual taxable sales expenditures by residents, office workers during office hours and hotel guests. Given that numerous studies have concluded that consumers will travel no farther than 20 minutes from home and a study by the Center for Disease Control found that consumers traveled an average of 2.6 miles for food purchases, including taxable prepared foods, the 65% assumption is reasonable due to the proximity of the project site to food and retail shopping. Further, any project-generated revenues used to pay for potential LOB debt service would only exist as a result of the project and would only be diverted during the term of the LOB, if issued, likely 30 to 40 years. Thereafter, all of these new tax revenues would flow to the City’s General Fund.*

Off-Site Maintenance

As the report correctly notes, the City has agreed to seek funding for the construction of off-site improvements and to perform ongoing maintenance for all off-site improvements, while all on-site public improvements and parks as well as the grade separated crossings would be maintained by the A’s. The report further states that *“these additional [off-site] maintenance costs to the City’s General Fund will exist in perpetuity, although there is no dedicated revenue stream to cover their expense” (PMSA Report, p. 18). With the exception of the grade separated crossings, all off-site work consists of improvements to existing City rights-of-way that the City currently maintains, as it does all public rights-of-way throughout the City of Oakland.*

The off-site public infrastructure that will be improved as a result of the Waterfront Ballpark development is aging and costly to maintain. As a result, in many cases, construction of off-site infrastructure improvements may actually reduce the City's maintenance costs and accordingly reduce General Fund expenditures. As noted above, if a LOB is utilized to fund some of the costs of constructing off-site infrastructure, that instrument would utilize only net incremental fiscal revenues, after setting aside sufficient incremental tax revenues to fund the incremental cost of providing City services to the proposed project's new residents, businesses, workers and visitors. Finally, the City's cost to provide City services such as parking and traffic control, litter pickup, and public safety/emergency services to the ballpark and surrounding neighborhoods on game and event days would also be reimbursed by the A's at a level that exceeds current A's reimbursement for such services.

Traffic Congestion and Economic Costs

The report cites various academic studies that conclude traffic disruptions may occur following development of a baseball stadium and that in markets with high levels of traffic, the additional vehicle miles traveled cannot be absorbed. The report asserts that *"the environmental impact report describes a permanent or substantial transportation hazard that will not be fully eliminated and even with mitigation the impact would be significant and unavoidable"* (PMSA Report, p. 26). Thus, the PMSA Report concludes that the ballpark traffic displaces typical non-baseball traffic, resulting in a shifting in economic activity from non-baseball uses to baseball activity. Automobile delay or traffic congestion is not considered a significant impact on the environment under CEQA. Nevertheless, traffic analyses prepared by the City's consultants at Fehr & Peers concluded that, following implementation of planned off-site infrastructure improvements, during a sold-out midday weekday game (which would have the greatest impact on local traffic), traffic flow at Adeline and 3rd *would improve* as compared to existing conditions, from a current level of service (LOS) E to LOS B between the hours of 5 and 6 pm. The intersection of 5th and Union Street, which brings traffic, including Port drayage trucks, from I-880 to the Seaport, *would also improve* at that hour from LOS D to LOS C, and the intersection of Adeline and 5th Street would operate similarly to today. Overall, most streets will operate similarly on gamedays as compared to existing conditions.

Impacts to Port Activity

The PMSA Report addresses perceived economic disruption of Port activity, stating that *"providing up-front development rights to land that is necessary for the Inner Harbor turning basin expansion could lead to costly recapture and reacquisition, or a failure to reacquire, which would decrease the ability to generate economic activity at the Port"* (PMSA Report, p. 27).

The Port, pursuant to Section 7 of the Exclusive Negotiation Term Sheet for Howard Terminal (ENTS), reserved approximately 10 acres of land in the southwest corner of the Project site for the construction and operation of a potential, future expansion or reconfiguration of the Inner Harbor Turning Basin ("Maritime Purposes"). This reservation included an approximately 6-acre portion nearest the southwest corner of the site (and the existing turning basin), known as the Maritime Reservation Lands, over which the Port would retain an option to utilize all or any portion for Maritime Purposes through May 2029, in addition to an approximately 1-acre landward portion known as the Maritime Reacquisition Lands, and an approximately 3-acre

landward portion known as the Variant Lands, over both of which the Port would retain an option utilize all or any portion for Maritime Purposes through May 2024. As noted on page 5, above, and in the [February 15, 2022 Memorandum](#), of the approximately 6-acre Maritime Reservation Lands, the Tentatively Selected Plan for the Inner Harbor Turning Basin would impact fewer than 2.5 acres of fast land (land that is above the high-water mark) at the former Howard Terminal. The current alignment of the Tentatively Selected Plan does not appear to impact the Maritime Reacquisition and Variant Lands. Section 7.2 of the ENTS requires that the A's "waive any claims to payment or compensation from the Port for the Port's election" to use all or any portion of the Maritime Reservation Lands for Maritime Purposes, excepting a pro rata reduction in the fixed ground rent otherwise payable for the approximately 50-acre site. Thus, the costs and risks alluded to in the PMSA Report do not appear to be based in fact.

The report also misinterprets the City's Term Sheet when it states "*per the current Term Sheet, the Phase 1 stadium development is allowed to open with only on-site infrastructure in place. Off-site infrastructure does not need to be contractually completed per the Term Sheet yet it is listed by other safety and transportation experts as exceptionally vital to the proper functioning of the project. (Most of the MMRP must be completed in advance of stadium opening, but there are contractual inconsistencies.) Failure to complete all off-site infrastructure increases the risk to truck, train, and personal safety. In this situation, it is not unreasonable to expect multiple and/or significant personal injury lawsuits against the City and Port*" (PMSA Report, p. 27). The Term Sheet does not indicate that the stadium could be developed with only on-site infrastructure in place. Most offsite infrastructure improvements are required under the California Environmental Quality Act (CEQA) as mitigation measures, and the triggers for their implementation are listed in the certified FEIR and [Mitigation Monitoring and Reporting Program](#) (MMRP). Thus, the requirements did not need to be restated as contractual requirements in the Term Sheet, which in any case is non-binding and cannot create such obligations.

The PMSA Report further asserts that there are no funding mechanisms or completion dates for the off-site infrastructure stating "*most of the off-site infrastructure has to do with the safe and fluid movement of people, vehicles, and cargo. Without a funding mechanism or a completion date for off-site infrastructure, the stadium will cause "significant and unavoidable" traffic disruptions that will affect not only the health and safety of individuals but will affect the economic activity in Downtown Oakland and the Port of Oakland*" (PMSA Report, p. 27). Here and above, the author – who is not an expert in land use law or policy – understandably conflates "traffic disruptions" and "significant and unavoidable" impacts identified in the EIR. CEQA specifically provides that automobile delay is no longer considered a significant impact; as such, alleged traffic disruptions cannot be CEQA impacts. Regardless, all infrastructure and operational measures required to mitigate potentially significant transportation safety impacts are identified as mitigation measures in the EIR and MMRP and must be implemented on the timeline set forth therein (mostly, prior to ballpark opening). In addition, the EIR also incorporates as mitigation measures, alternatives, and non-CEQA recommendations all of those improvements identified by the Port as necessary to ensuring Seaport compatibility. Please refer to the certified final EIR and MMRP for additional information. Finally, the City has identified funding sources for off-site infrastructure as described above and detailed in the September 2022 Memorandum.

Key Questions

The PMSA Report concludes with a series of **Key Questions** on page 29. Provided below are the key questions and the City's brief response to each question.

1. *How can the City reasonably determine the revenue benefits of the project when so many details are unavailable? Will a detailed 45-year financial forecast be calculated before the City negotiates a Project Development Agreement?*

As the PMSA Report notes, negotiations with the developer are ongoing, and not all information is yet in the public domain. If and when a proposed deal is brought forward for consideration by the Council, it will include a full update to the independent fiscal impact analysis previously prepared and presented to the Council in July 2021.

2. *Why are the A's required to stay in Oakland for only 25 years while they can recoup development expenditures for an additional 20 years after that?*

The term of the Port ballpark ground lease and each Port vertical development parcel lease is anticipated to be 66 years. Each project area within the IFD is statutorily limited to a 45-year life, well within the ground lease period for each private development, including the ballpark. The term of the A's Non-Relocation Agreement, which would, in addition to the Port agreements, require the A's to stay and play in the new ballpark, is the subject of ongoing negotiations.

3. *By 2050, when there is temporary inundation of the site and sea rise makes it challenging to reach Howard Terminal, if the A's leave or request a new ballpark, what will happen to the existing stadium?*

See number 4, below, for accurate information with regard to sea level rise and the project site, which will be accessed via grade-separated road- and walk-ways elevated well above even the most extreme sea level rise projections.

Under the terms of the Port's [Exclusive Negotiation Term Sheet](#) for Howard Terminal, if the A's leave for any reason, they must "provide for the removal of all vertical improvements, at [their] sole cost and expense."

4. *Is the diversion of property tax for 45 years and the assumption of infrastructure improvements (\$850 million or more) a good investment for a project that acknowledges it will be subject to temporary inundation before the end of its initial period of public financing?*

As noted above, by starting from hypothetical off-site infrastructure costs, adding SCM costs already included in the City's off-site infrastructure estimates, and then escalating costs that already included reasonable consensus estimates of inflation, the PMSA Report arrives at an estimate of off-site infrastructure costs that likely overstates actual costs by more than \$250 million. Further, many of the proposed off-site infrastructure improvements benefit Oakland and Oaklanders, are already fully funded, and will be constructed over time, regardless of whether or not development of the proposed project proceeds.

With regard to sea level rise, climate impact studies predict that much of the Seaport, City, and indeed much of coastal California, will experience temporary inundation in the next century due to the global climate crisis, and the project site is not unique in this regard. The project design, however, is unique in that it incorporates measures for raising the grade on site to account for 100-year storm events, wave run-ups, king tides, and other extreme high tides associated with the medium-high risk aversion for the high-risk emissions scenario (5.7 to 6.9 feet of sea level rise) through 2100, well beyond the maximum 45-year term of the contemplated IFD. According to California's Ocean Protection Council (State of California Sea-Level Rise Guidance, 2018 Update), the probability that actual sea-level rise meets or exceeds this scenario by 2100 is 0.5%. Nevertheless, the Project would also be required to outline adaptation pathways for purposes of risk management that could be implemented to ensure ongoing resiliency if the H++, or extreme risk aversion, scenarios (10.2 feet of sea level rise) as defined by the Ocean Protection Council were to occur.

5. *Why would the Port give development rights to land that is necessary for an Inner Harbor turning basin expansion and then be required to recapture and reacquire those rights? Wouldn't it be more cost-effective and in line with the Port's growth plans to retain the necessary Port property for existing maritime functions?*

The feasibility of any potential expansion of the Inner Harbor Turning Basin has not yet been determined. As noted in the City's [February 15, 2022 Memorandum](#), feasibility analysis of the Tentatively Selected Plan is currently underway and is expected to be complete in May 2023. In addition to the December 2021 federal Environmental Assessment, a draft EIR is also being prepared by the Port for the potential widening project and is expected to be available for public review in early 2023. No final determination has yet been made with regard to expanding the Inner Harbor Turning Basin, though the Port's ENTS does anticipate and accommodate such a project, as detailed on page 7, "Impacts to Port Activity", above.

Finally, as noted in Port Executive Director Danny Wan's June 2022 [remarks](#) to the San Francisco Bay Conservation and Development Commission (BCDC), after extensive due diligence, land planning and public engagement, *"the Port has concluded that removal of the Howard Property from Maritime use will not impede the operations or the sustainable future growth of the Port's seaport operations."* BCDC overwhelmingly agreed, with 23 of 25 commissioners voting to remove the Port Priority Use designation from the former Howard Terminal property.

6. *Given the risk of economic loss for maritime businesses at the Port of Oakland, shouldn't the developer and maritime stakeholders negotiate a finalized list of Seaport Compatibility Measures and a specific determination of who will pay for them before the City continues negotiation with the A's on a Project Development Agreement?*

On December 16, 2021, Port Executive Director Danny Wan, in a [letter](#) to the Oakland City Council, provided a final list of measures required to ensure compatibility of the proposed project with ongoing Seaport operations. All transportation improvements requested by the Port to ensure Seaport compatibility are included in the City's off-site infrastructure plans and budgets.

7. *Although it is not required by CEQA, shouldn't the City insist that the Transportation Management Plan (TMP) specifically address, accommodate, and provide solutions and funding mechanisms to remove any risks to jobs and economic activity at the Port and other local businesses caused by game-day congestion?*

The purpose of the TMP is to outline improvements and operational strategies to optimize access to and from the Ballpark within the constraints inherent to a large public event, while minimizing disruption to existing land uses and communities, including the Seaport. Relevant objectives include:

- Minimize event-related vehicular, bicycle, and pedestrian impacts to surrounding residential and commercial areas, including warehouse and industrial operations and the Port.
- Minimize conflicts with Seaport operations, including freight movement by roadway and rail.

The TMP does indeed specifically address, accommodate, and provide solutions and funding mechanisms to address real and perceived risks to jobs and economic activity at the Port and other local businesses caused by game-day congestion. Throughout the TMP, there are specific strategies to address potential impacts to goods movement and economic activity at the Port, such as traffic control officers and variable message signs that restrict key industrial streets to industrial users only during large events.

Performance standards related to goods movement can be found in Chapter 16 of the TMP, including:

1. Railroad Safety: Traffic entering and exiting the site on event days does not block railroad tracks and people follow the railroad crossing warning devices regardless of whether a train is present.
4. Port of Oakland Safety: Near-miss events between Port vehicles and non-Port people and vehicles at the Adeline Street/3rd Street and Adeline Street/7th Street intersections are not more frequent on event days compared to a non-event day baseline.
1. Port of Oakland Operations: Vehicle travel times for trucks traveling between Port entry points and nearby freeways or key truck routes are at reasonable and acceptable levels. The routes evaluated may include, but are not limited to, the following:
 - a. Matson Terminal/Middle Harbor Road intersection to and from Union Street/5th Street/I-880 ramps
 - b. Matson Terminal/Middle Harbor Road intersection to Adeline/5th Street/I-880 southbound on-ramp
 - c. I-880/7th Street off-ramp to 7th Street/Maritime Street
 - d. Market Street/6th Street/I-880 off-ramp to Matson Terminal/Middle Harbor Road intersection EverPort Terminal entrance on 7th Street to and from the 7th Street/I-880 ramps
 - e. EverPort Terminal entrance to and from the W Grand Avenue/Maritime Street/I-80 ramps

2. Port of Oakland Cut-Through Traffic: Howard Terminal site traffic is being effectively deterred from using internal Port roadways.

As noted in Section 1.3 of the TMP, the A's are responsible for implementation of the TMP.

8. *What happens if federal grants cannot be obtained for off-site infrastructure? Who pays? Or what reductions or delays will there be in constructing infrastructure, and who gets to decide when and where those occur?*

This is the subject of ongoing negotiations between the parties. The City Council's direction has been to secure outside funding primarily from State, Federal and Regional grants, which City staff is actively pursuing. As noted above, the timing of the off-site improvements that are required as mitigation measures in the EIR is set forth in the MMRP. Any changes to the MMRP would be subject to approval by the City in compliance with CEQA.

9. *If there is no optimal solution for transportation safety (and the safest options are both cost and logistically prohibitive) what are the costs to settle lawsuits related to injury or death?*

The City acting as lead agency under CEQA has identified and adopted appropriate and feasible mitigations for all safety impacts. These mitigation measures have already been upheld by the trial court.

10. *What is the maximum dollar amount of future property taxes committed to the IFD to be reimbursed to the developer? Is this amount reasonable and within the scope of other IFDs in California? What are "eligible capital improvements"? Can the developer request reimbursement for their borrowing costs (e.g., interest)?*

The maximum dollar amount of future property taxes that will be committed to the IFD as well as the specific development costs that will be reimbursed from these revenue sources will be detailed in an Infrastructure Financing Plan, which is statutorily required to be approved prior to the formation of any IFD by the IFD's governing board and the legislative bodies of any entities allocating tax revenue to the IFD. In this case, the governing board is anticipated to include the City Council and County Board of Supervisors. The capital improvements costs that will be reimbursed from the IFD will adhere to established IFD law and, where applicable, federal tax law and may include all eligible capital costs of on-site public infrastructure, off-site public infrastructure and deed-restricted on-site and off-site affordable housing constructed in excess of municipal code requirements. Subject to City and County approval, those costs could include reimbursement of interest costs incurred to finance the construction of eligible improvements.

11. *Is there a risk that the Community Fund will not generate sufficient revenues since most of it depends on condominium transfer fees over 66 years? Will the City conduct a detailed, long-term financial analysis?*

There is a risk that revenues will be lower than currently projected if fewer condominiums are built, the same number of condominiums are built-out over a longer period of time, or the sale price or resale rate are lower than projected. There is also potential that community benefit revenues will be greater if more of the residential units are built as condominiums, the same

number of condominiums are built-out over a shorter period of time, or the sale price or resale rate of the condominiums are higher than projected. The City has prepared long-term financial projections working with its economic consultants, which will be addressed as part of updated financial analysis to be presented to the Council prior to consideration of any final deal with the A's.

FISCAL IMPACT

There is no fiscal impact from receiving this informational report.

PUBLIC OUTREACH / INTEREST

This information report responds to council's interest in potential economic issues related to the Waterfront Ballpark District.

COORDINATION

In addition to the City Administrator's Office, information for this report was provided by the Port of Oakland. The report was reviewed by the City Attorney Office and the Budget Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: Economic impacts of any final, proposed Waterfront Ballpark District will be subject to a separate financial analysis at the time a deal is reached.

Environmental: This report does not directly address environmental sustainability.

Race & Equity: The City has been working through an equity-centered Community Benefits process for the Waterfront Ballpark District project, which included prioritized engagement with targeted populations and impacted geographic areas of the project that have the highest numbers of residents who face disproportionately high levels of racial inequity. The process was centered on the use of existing conditions of racial disparities data from the Oakland Race and Equity Baseline Indicators Report that was published in 2019 from which community benefits recommendations were developed.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That The City Council Receive An Informational Report From City Staff Regarding Documents from Maritime Industry Groups on Potential Economic Issues Related to The Oakland Waterfront Ballpark District At The Howard Terminal Proposed By The Oakland Athletics including A Report On Analysis Conducted By: Professor Nola Agha, Ph.D., The University Of San Francisco, Professor Of Sport Management, Report Entitled "Evaluation Of

Edward D. Reiskin, City Administrator

Subject: Response to Waterfront Ballpark District Study Prepared for PMSA

Date: November 30, 2022

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The Revenues, Costs, And Impacts Of The Proposed Oakland Waterfront Ballpark District At Howard Terminal On The City Of Oakland,” And Summary of the Report by Professor Agha.

For questions regarding this report, please contact Molly Maybrun, Project Manager III, at 510-238-4941.

Respectfully submitted,

Elizabeth Lake

ELIZABETH A. LAKE
Assistant City Administrator

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City Administrator’s Office