



# AGENDA REPORT

**TO:** Edward D. Reiskin  
City Administrator

**FROM:** Betsy Lake  
Interim Assistant City  
Administrator

**SUBJECT:** Waterfront Ballpark District at Howard  
Terminal

**DATE:** July 15, 2021

City Administrator Approval

Date: Jul 16, 2021

## **RECOMMENDATION**

**Staff Recommends That The City Council Adopt A Resolution Approving Non-Binding Terms Of A Development Agreement With The Athletics Investment Group LLC, D/B/A The Oakland Athletics, A California Limited Liability Company, Including Terms For, But Not Limited To, The Financial Plan, Community Benefits, And Non-Relocation, Related To The Proposed Oakland Waterfront Ballpark District Project To Be Developed On The Property Known As The Howard Terminal At The Port Of Oakland.**

## **EXECUTIVE SUMMARY**

The Oakland Athletics (Oakland A's or A's) have proposed development of the Waterfront Ballpark District at Howard Terminal on Port of Oakland land at the westerly end of Jack London Square. The proposed project would include a new, 35,000-person capacity ballpark, together with up to 3,000 residential units, 1.5 million square feet of office space, and 270,000 square feet of mixed retail, cultural and civic uses, as well as a 3,500-seat performance theater, up to 400 hotel rooms, and approximately 18 acres of new, publicly-accessible open space ("the Project"). At \$1 billion, the A's iconic new waterfront Ballpark at Howard Terminal would represent the largest private investment to date in any Major League Baseball (MLB) park nationwide.

If approved, the Waterfront Ballpark Project at Howard Terminal will keep the A's rooted in Oakland for decades to come. Properly executed, the Project has the potential to accelerate long-needed infrastructure and transportation improvements that will allow people to move safely to and around the waterfront and protect the economic engine of the seaport, expand the tax bases of both City and County, and achieve equitable jobs, housing, and other direct benefits for the community – all without the risk of leaving taxpayers on the hook. In stark contrast to past Oakland sports deals, the Oakland A's will privately finance, construct, operate and maintain the proposed Ballpark at Howard Terminal. No public funds will be used to build or operate the ballpark. Further, while agreement has not been reached with the A's regarding certain financial costs, staff's goal is to ensure that any final deal will not put the City's or

City Council  
July 20, 2021

County's General Funds at risk, unlike the bonds that had been issued to renovate the Coliseum on behalf of the Raiders.

With these guiding principles in mind, staff recommends that the City Council adopt a resolution approving non-binding Terms of a Development Agreement with the Oakland A's for the proposed Project, as set forth in **Attachment 1**, and described in greater detail below.

**Importantly, as staff has not reached agreement with the A's on certain elements of the term sheet by our publication deadline, the attached framework is a draft and subject to change upon further negotiations.**

## **BACKGROUND AND LEGISLATIVE HISTORY**

The Oakland A's have applied to the City of Oakland (City) for a Development Agreement, General Plan Amendment, Rezoning, Planned Unit Development, and associated environmental review, all to govern redevelopment of the approximately 55-acre site commonly known as Howard Terminal, located within the Port of Oakland (Port) on the Oakland Estuary at the southerly terminus of Market Street. The site is Port-controlled and is currently used primarily for truck parking and as a container depot.

The Project will require multiple discretionary approvals at the State and local levels, including but not limited to the City's approval of a General Plan Amendment, Rezoning, Tentative Tract Map, Preliminary and Final Development Plans and a Development Agreement, and the Port's approval of various real estate agreements, including an Option Agreement and Port Building Permit<sup>1</sup>. The City and Port also must each ensure that the shared regulatory framework contemplated in the 2020 "Memorandum of Understanding Between City and Port Regarding Howard Terminal Oakland A's Ballpark Project" (MOU), approved by Resolution No. 87998 CMS dated January 21, 2020, is implemented. Once the local approvals are complete, the Project requires, at a minimum, approval from the State Lands Commission (SLC) of a trust exchange agreement for the property and trust-consistency determination with regard to the proposed uses on trust lands, issuance of a Major Permit from the Bay Conservation and Development Commission (BCDC) for the Project, and approval from the Department of Toxic Substances Control (DTSC) of a remedial action workplan (or equivalent) for the site. All agencies are working collaboratively with City staff and the Oakland A's to review and regulate the proposed Project.

On July 7, 2021, the Community and Economic Development (CED) Committee of the City Council received an Informational Report and conducted a study session focused on certain key terms, including an infrastructure financing district, non-relocation, affordable housing, and other community benefits. The Informational Report is provided here as **Attachment 2**, and the video of that meeting is available on the City's website at [http://oakland.granicus.com/player/clip/4327?view\\_id=2&redirect=true](http://oakland.granicus.com/player/clip/4327?view_id=2&redirect=true). Additional information and a glossary of terms is provided in the Frequently Asked Questions (FAQs) about the

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<sup>1</sup> On May 13, 2019, the Board of Port Commissioners unanimously approved the nonbinding terms of its own contemplated agreements with the A's for the Project, as documented in the Exclusive Negotiating Term Sheet Agreement available at <https://www.portofoakland.com/wp-content/uploads/Howard-Terminal-microsite-Term-sheet.pdf>.

Waterfront Ballpark District at Howard Terminal on the City's website at <https://www.oaklandca.gov/resources/waterfront-ballpark-district-at-howard-terminal-faqs>. At the July 7, 2021 CED meeting, staff presented the status of its term sheet negotiations with the A's, made recommendations regarding key terms still under negotiation, and received comments from the public and Councilmembers. In general, members of the Committee and other Councilmembers in attendance supported staff's recommendations, as set forth in more detail in **Attachment 2**.

With respect to public financing, Councilmembers provided clear feedback supporting a single Enhanced Infrastructure Financing District (IFD) over the Howard Terminal site, with participation from the City and County. Proceeds of the on-site IFD would be used, as and when available, to reimburse the A's for the costs of infrastructure, parks and open space, and affordable housing in excess of code requirements. In addition to continuing to seek County participation in the IFD, Councilmembers supported staff's continued pursuit of local, regional, State, Federal and other funds to defray the costs of offsite transportation infrastructure, parking management, and grade separation for the Project which are projected based on cost estimates provided by the A's to total \$351.9 million, sources for which must be secured or authorized prior to entering into the Development Agreement.

Councilmembers requested that additional information be provided by the Port with regard to its contemplated Seaport Compatibility Measures and potential contributions to community benefits, including its jobs policies. In response, the Port sent a letter dated July 15, 2021, provided here as **Attachment 3**, which presents more information on each of these items, as briefly summarized here.

With respect to Seaport Compatibility Measures, the Port includes an initial list of items as Attachment 2 to its July 15, 2021 letter (see **Attachment 3**). At the July 7, 2021 CED meeting, Councilmembers reiterated their desire to review the full list of Port Seaport Compatibility Measures prior to taking final action on the Project. Staff will continue working collaboratively with their Port counterparts to ensure that Councilmembers have full and adequate information in this regard prior to undertaking any final actions on proposed Project.

With respect to community benefits, the Port described in more detail its jobs policies that apply to the Project and its intent to contribute to the Community Fund. As proposed by the A's and Port, the Port's jobs policies would supersede those of the City, as the Project is located on Port-controlled property. The Port's construction jobs policy, the Maritime Aviation Project Labor Agreement (MAPLA), is provided here as **Attachment 4** and the Centerpoint Operations Jobs Policy is provided here as **Attachment 5**. As noted by the Port, its policies include local hire, small local business enterprise and operational jobs policies. The Port's policies differ from the City's jobs policies in notable respects. Both have a goal of 50 percent local hire, but the Port's definition of local includes a broader local impact area that encompasses the cities of Oakland, Alameda, Emeryville and San Leandro. Both have small local business enterprise policies, but the Port's program does not include a specific trucking component and includes bid preferences instead of requirements. The Port's Apprenticeship program is stronger than the City's, as the Port requires 20 percent of local craft hours be performed by apprentices and 25 percent by disadvantaged workers, whereas the City only has a 15 percent apprenticeship goal.

In addition to these jobs policies, the Port's letter includes an expression of intent to contribute its Social Justice Trust Fund collected under the MAPLA to the Project's proposed Community Fund and to direct the A's contribution of a 0.35 percent condo flip fee to the Community Fund. These commitments would provide both an upfront and a longer-term source of funds contributed by the Project that would help support a robust Community Fund over the life of the Port's 66-year lease with the A's.

At the CED meeting, Councilmembers also requested confirmation that tenant protection measures could be funded through the Community Fund. As recommended by staff, the Community Fund includes sources of moneys, such as payments in lieu of Transportation Impact Fees condo transfer fees, which are unrestricted, flow to the Community Fund starting during the Project's construction phase and continue throughout its 66-year term, and which may be designated to tenant protection measures. Indeed, such tenant protection measures were included in the *Community Benefits Recommendations Summary Report* (Attachment 5 to the July 7, 2021 Informational Report), which list of measures is anticipated to form the basis of the Community Fund's initial strategic plan.

Finally, at the CED meeting, Councilmembers requested further information and commitments to address Chinatown's concerns and to track implementation of DTSC's remediation requirements for the Project site. Staff has continued to meet with Chinatown stakeholders, and is committed to working collaboratively to identify and implement those measures that may be needed to ensure the compatibility of the proposed Project with the Chinatown commercial and cultural district. Staff will also work to develop an informal City, Port and community monitoring group to track cleanup of the Project site.

## **ANALYSIS AND POLICY ALTERNATIVES**

### **DEVELOPMENT AGREEMENT TERM SHEET**

In February 2020, the A's submitted an application for a Development Agreement for the proposed Project, and shortly thereafter, in April 2020, the City and A's began negotiating a Development Agreement term sheet. On April 23, 2021, the A's released a proposed term sheet, provided in **Attachment 6**, which included many terms that had been negotiated and mutually agreed upon between City and A's between April 2020 and April 2021. However, the A's proposed Financial Plan (Exhibit F to the A's Proposed Term Sheet in **Attachment 6**) did not represent a consensus between the A's and City Staff. In the intervening months, Staff has continued to evaluate, revise, and attempt to arrive at consensus with the A's on a new Term Sheet and Financial Plan.

As of the time of this writing, staff and the A's have made significant progress toward that goal. However, open issues remain with regard to the financing of offsite infrastructure, affordable housing, and sources for the Community Fund. Staff remains 100 percent dedicated to finding mutually acceptable solutions to these outstanding issues through continued dialogue and negotiation with A's representatives.

As noted above, staff's recommended term sheet is provided as **Attachment 1** hereto, and incorporates the key terms summarized in **Table 1** below:

**Table 1: Term Sheet Key Terms**

Term	35 Years
Ballpark Deadline	The A's must commence construction of the ballpark by the later of (a) May 13, 2025 or (b) four (4) years from the final adjudication of any third party legal challenges to the initial Project approvals that prevent the Commencement of Construction of the Ballpark, but, consistent with the Exclusive Negotiation Term Sheet for Howard Terminal between Developer and the Port, in no event later than May 13, 2028 (subject to Force Majeure).
Turning Basin	The Port reserved rights to recapture portions of the Project site for expansion of the Inner Harbor Turning Basin, and the A's in turn reserved rights to reannex that land if the Port fails to meet certain conditions. If the Port exercises its recapture rights, the Development Agreement will remain in effect with respect to such land until any reannexation rights expire.
Amendments	Material Changes require City Council approval by ordinance. All other amendments may be approved by the City Administrator.
Phasing of Park and Infrastructure	<p>The Master Phasing Diagram is attached as Exhibit B to the Term Sheet and generally identifies the phases, infrastructure and key open space elements of the Project.</p> <p>The Development Agreement will include a final phasing plan and procedures designed to ensure that infrastructure and capital improvements are constructed in a manner that is appropriate and proportional to the level of development proposed in each phase.</p> <p>Vertical Development: The Ballpark must be included in the first phase. Developer retains the right to develop the vertical development in such order and time as it determines in the exercise of its business judgment.</p> <p>Infrastructure: Phasing of infrastructure will be administered through the City's subdivision and permitting processes. In general, each onsite street segment, including associated sidewalks, landscaping and utilities shall be constructed with a particular vertical development parcel. All offsite transportation improvements shall be completed consistent with the requirements of the Project approvals.</p> <p>Parks: Athletics Way, MLK Plaza, Rooftop Park and Waterfront Park A, as well as an interim or permanent connection of the Bay Trail to Market Street, shall be completed before issuance</p>

	<p>of an occupancy permit for the Ballpark. Stomper Plaza shall be completed before issuance of an occupancy permit for Block 5. Waterfront Park C shall be completed before issuance of an occupancy permit for Block 7. Triggers for completion of Waterfront Parks B, D, E and F shall be established in the Development Agreement.</p>
<p>Vested Rights</p>	<p>Developer shall have vested rights to develop the Project as set forth in the Development Agreement, Project approvals, and existing laws.</p> <p>New laws apply to the Project except to the extent they conflict with the Development Agreement by limiting, changing, or delaying vested Project elements or increasing certain Developer obligations.</p> <p>Regardless, nothing in the Development Agreement shall prevent the City from:</p> <ul style="list-style-type: none"> <li>(a) taking any action that is necessary to protect the health and safety of the public or to comply with applicable changes in Federal or State Law;</li> <li>(b) applying to the Project any rules or regulations contained in the California Building Standards and Fire Codes, including the Oakland Building and Construction Code or other uniform construction codes; or</li> <li>(c) applying then-current City standards applicable to infrastructure permits if (i) the standards would not require a material modification to previously approved permit drawings for the work; and (ii) the standards are compatible with what was previously built as part of the Project.</li> </ul>
<p>Force Majeure</p>	<p>Force Majeure shall mean event(s) beyond the Developer's control that cause material delays in the Developer's performance of its obligation to Commence Construction of the Ballpark by the Ballpark Deadline.</p> <p>Force Majeure extensions shall not exceed four (4) years in the aggregate.</p>
<p>Administrative Fees</p>	<p>Administrative Fees as set forth in the City's Master Fee Schedule shall be the rates in effect as of the date of the relevant application.</p>
<p>City Costs</p>	<p>Developer shall reimburse City for: (1) monitoring, administration and enforcement of the Development</p>

	<p>Agreement and other Project approvals, (2) processing of all current and future Project approvals, and (3) defense of all Project approvals</p> <p>In addition, the A's shall pay the City for its costs incurred to provide City services to the Ballpark and surrounding neighborhoods in connection with baseball games and other events at the Ballpark, which may include (but are not limited to):</p> <ul style="list-style-type: none"> <li>• Parking and traffic engineering and control services;</li> <li>• Police and other emergency services;</li> <li>• Litter pickup/street and sidewalk cleanup.</li> </ul>
<p>Review of Development Permits</p>	<p>The Development Agreement will incorporate permit process best practices that may include expedited permitting measures to be funded at Developer's sole cost.</p>
<p>Community Benefits Fund</p>	<p>City/Port to establish a Community Fund, to be administered over the course of the 66-year Port lease, comprised of funding from City, County, Port and A's.</p> <p>City staff to work collaboratively with community stakeholders to establish a mutually acceptable framework for (a) governance of the fund and (b) community oversight to ensure that community benefits commitments included in the Development Agreement are met, both to be set forth in greater detail in the Development Agreement.</p>
<p>Workforce Development</p>	<p>Project is on Port jurisdiction, and Port's workforce requirements will apply rather than the City's. Specifically, project construction will be subject to the MAPLA.</p> <p>In addition, Port to apply operations jobs principles, generally as set forth in the Port's 2017 Operations Jobs Policy for the Centerpoint Oakland Global Logistics project, in developing an operations jobs policy for the proposed Project. These include living wages and benefits for workers; priority consideration for unemployed individuals, armed forces veterans, single parents, ex-offenders and foster care adults; and a ban on asking applicants about prior criminal offenses.</p>
<p>Affordable Housing</p>	<p>The project will target a total of 30 percent affordability including a combination of new on-site affordable units and offsite displacement prevention strategies including new construction, preservation, renovation, down payment and</p>

	senior assistance in the four impacted neighborhoods (West Oakland, Chinatown, Old Oakland, and the Jack London District).
Public Art	The draft public art plan is attached to the Term Sheet as Exhibit E.
Infrastructure Financing	City and Developer to jointly pursue formation of a Community Facilities District and a single IFD over the Project site to finance eligible capital improvements, affordable housing and maintenance costs. See Exhibit F for details.
Non-Relocation	As material inducement for the City to enter into the Development Agreement and for the City's participation in the IFD, Developer shall enter into a non-relocation agreement requiring the team to stay and play in Oakland for a period of at least 25 years. At anytime during the 25-year term should the team elect to relocate or violate a material covenant of the non-relocation agreement, it would be obligated, for the entire remaining term of any outstanding bond indebtedness, to pay the difference between the tax increment generated by the Project and debt service on any outstanding public debt intended to be satisfied by that increment. Such obligation to pay shall continue even after the 25-year term, as long as the public debt remains outstanding.
CEQA	The City will not approve a Development Agreement until the final environmental analysis for the Project is completed and approved in accordance with the California Environmental Quality Act (CEQA) and Assembly Bill (AB) 734.

**FISCAL IMPACT**

There is no fiscal impact from this agenda item, as it is an action to approve only non-binding terms of any future Development Agreement. As stated above, the City's goal in any future Development Agreement that may be approved for the Waterfront Ballpark District at Howard Terminal will be to create a net ongoing fiscal benefit to the City and its taxpayers, even after accounting for the increased costs that the City will incur to provide City services to new residents and workers. This action for approval of a non-binding term sheet, including a Financial Plan, only creates a potential framework for a future Development Agreement, which will be brought before the City Council for consideration and approval.

**PUBLIC OUTREACH / INTEREST**

The Waterfront Ballpark District at Howard Terminal has been the subject of multiple public processes, including public processes related to various State legislation, including Assembly Bill 734, Assembly Bill 1191 and Senate Bill 293, and the California Environmental Quality Act. In addition, the City, Port and A's have conducted extensive outreach surrounding the community benefits process as discussed above. The July 7, 2021 CED study session was another opportunity for public outreach.

## **COORDINATION**

This report was created in coordination with the Planning and Building Bureau, Department of Transportation, the Mayor's Office, Economic and Workforce Development, Housing and Community Development, and the Finance Department. It also has been reviewed by the Office of the City Attorney.

## **SUSTAINABLE OPPORTUNITIES**

**Economic:** The Waterfront Ballpark District at Howard Terminal provides an economic redevelopment opportunity; the ultimate economic impact will depend on the final terms of the Development Agreement.

**Environmental:** The environmental impacts of the Waterfront Ballpark District at Howard Terminal are being analyzed in the CEQA document for the project, as described above.

**Race & Equity:** The project has convened a community benefits process that is equity centered; the ultimate impact will depend on the final community benefits package.

## **CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)**

The recommended action is for approval of a non-binding term sheet only, does not result in any discretionary approval or grant vested development rights, and does not commit the City to any definite course of action. Accordingly, this action does not constitute a "project" under CEQA Guidelines 15378 and is only a preliminary agreement of terms under CEQA Guidelines 15004(b).

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt A Resolution Approving Non-Binding Terms Of A Development Agreement With The Athletics Investment Group LLC, D/B/A The Oakland Athletics, A California Limited Liability Company, Including Terms For, But Not Limited To, The Financial Plan, Community Benefits, And Non-Relocation, Related To The Proposed Oakland Waterfront Ballpark District Project To Be Developed On The Property Known As The Howard Terminal At The Port Of Oakland

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

Respectfully submitted,

*Betsy Lake*

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Prepared by:  
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Attachment 1: July 20, 2021 City of Oakland Staff Recommended Terms of a Development Agreement

Attachment 2: July 7, 2021 CED Study Session on the Waterfront Ballpark District at Howard Terminal Agenda Report

Attachment 3: July 15, 2021 Letter from the Port of Oakland

Attachment 4: Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA)

Attachment 5: Centerpoint Operations Jobs Policy

Attachment 6: April 23, 2021 Oakland A's Proposed Term Sheet