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OAKLAND

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# AGENDA REPORT

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Betsy Lake  
Deputy City Administrator

**SUBJECT:** Howard Terminal Memorandum of  
Understanding

**DATE:** December 23, 2019

City Administrator Approval

Date:

12/30/19

## RECOMMENDATION

**Staff Recommends That The City Council Adopt A Resolution Authorizing The City Administrator, Or Designee, To Execute A Non-Binding Memorandum Of Understanding Between The City And The Port Regarding The Process Of Review Of Applications For, And, If Approved, The Anticipated Framework Of Regulation Of The Development Project Proposed By The Oakland Athletics At Howard Terminal.**

## EXECUTIVE SUMMARY

The proposed Memorandum of Understanding (MOU) Between the City of Oakland (City) and Port of Oakland (Port) will document the mutual understanding and intent of the City and Port regarding the process of review of applications for, and, if approved, regulation of the development project proposed by the Oakland Athletics at Howard Terminal (**Attachment A**). The project is anticipated to include a new major league ballpark together with residential and mixed-use development that will be built in multiple phases over a period of many years (the Proposed Project).

Development of the Proposed Project will require discretionary approvals from both the City and the Port, as well as other state, regional, and local agencies. Among other discretionary regulatory approvals, the Proposed Project will require certification of an Environmental Impact Report (EIR) pursuant to the California Environmental Quality Act (CEQA), final legislative action to effectuate the shared regulatory framework contemplated in the MOU, a General Plan amendment, new and revised zoning regulations, the filing of subdivision maps, and other related development permits. In addition, the Proposed Project will require Port Building Permits pursuant to Section 708 of the City Charter. Finally, a Development Agreement has been requested by the Oakland Athletics (collectively, the Project Approvals).

As set forth in the proposed MOU, the City and Port intend, during the pre-development application process to: (i) cooperate on the preparation of the EIR, (ii) cooperate on the potential amendment of the General Plan, (iii) jointly develop uniform zoning regulations applying to the Proposed Project, (iv) allow the City to accept and process the planning and zoning

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Community & Economic Development Committee  
January 14, 2020

development applications, including but not limited to applications for a Development Agreement (incorporating a comprehensive package of community benefits) and tentative subdivision map(s), along with other City permitting services necessary for the implementation of the Proposed Project, and (v) coordinate the above with the Port's power and duty under the Charter and Section 5 of the May 13, 2019 Exclusive Negotiation Term Sheet between the Port and the Oakland Athletics (ENTS) to take all actions associated with the Port Building Permits.

Staff is now requesting that the City Council endorse the proposed regulatory framework and provide its authorization for the City Administrator to execute the MOU.

### **BACKGROUND / LEGISLATIVE HISTORY**

The Proposed Project is located within the City of Oakland, a municipal corporation enabled by authority vested through its Charter, which was adopted by the people of the City of Oakland on November 5, 1968 and ratified and made effective by the California Secretary of State on January 28, 1969 (the Charter). As a charter city, the City has broad local authority with respect to land use planning and building permitting of lands lying within the City boundaries, including but not limited to adoption of a General Plan of the City and zoning regulations in conformance with the General Plan, encoded as Chapter 17 of the City Municipal Code (the Planning Code).

The Planning Code governs land uses and development standards, such as building height, bulk and setback, for specific zoning districts within Oakland. Permits to construct new buildings or to alter or demolish existing ones may not be issued unless a proposed project conforms to the Planning Code or an exception is granted pursuant to provisions of the Planning Code.

Article VII of the Charter vests in the Board of Port Commissioners, as a department of the City, the authority to control and manage certain lands of the City (referred to as the Port Area) in accordance with the Charter. Under Section 708 of the Charter, any construction, alteration, or other development in the Port Area requires a Port Building Permit (sometimes referred to as a Port Development Permit). The Board of Port Commissioners has adopted ordinances governing the application and issuance of Port Building Permits, including Port Ordinance No. 2083, as amended by Port Ordinance Nos. 2972, 3689, and 3943.

Approximately 50 acres of the 55-acre project site lie within the Port Area, with the remainder located within the Estuary Policy Plan area. As a result, to date, some provisions of the Planning Code have not been enforced for the portion of the Proposed Project site located within the Port Area.

### **ANALYSIS AND POLICY ALTERNATIVES**

In order to avoid administrative duplication, to appropriately allocate regulatory land use authority between the City and Port, and to facilitate the analysis of and, if approved by all applicable government agencies and entities, regulate the development of the Project, the Port and City, without waiving any of their respective authorities and jurisdiction over lands within the

Port Area and consistent with Article VII of the Charter, are cooperating to establish a shared regulatory framework for the Project.

Pursuant to that framework, it is anticipated that the City and the Port will closely consult and confer with one another regarding the content of the proposed General Plan amendment and zoning regulations that will govern future development of the proposed Project, both of which will be presented to the City Council for its discretionary review and approval. Further, it is anticipated that the City will accept applications for, process, and consider approval of all tentative and final subdivision maps and construction building permits as required for build-out of the proposed Project. In so doing, it is anticipated that the City will apply all relevant requirements, ordinances, policies, and codes typically employed in its ordinary course of business, including but not limited to the City's requirements for stormwater treatment, exterior lighting, creek protection, tree protection, the payment of fees pursuant to the City's Master Fee Schedule, and the handling of hazardous materials during Project construction and/or operation. The Port will specifically reserve its power and duty to issue Port building permits pursuant to the ENTS and Section 708 of the Charter, which building permits will be in addition to any other permits required by the City.

The proposed MOU will be a nonbinding statement of intent, and **no final decision or action on the Proposed Project, the shared regulatory framework contemplated in the MOU, or any other of the Project Approvals, is being undertaken by the City Council should it approve the proposed MOU.** The City and the Port will retain full discretion, following completion of the CEQA process, to adopt mitigation measures or alternatives, including the "no-project" alternative.

The MOU contemplates the following roles and actions related to the potential Project Approvals:

- CEQA: The City will act as lead agency for environmental review under CEQA. The City and the Port will closely consult and confer regarding the content of the Draft EIR, including, but not limited to, the scope of the EIR, description of the environmental setting, appropriate baselines, significance thresholds, impact determinations, mitigation measures, and reasonable range of project alternatives, and will review, provide comments, and perform other tasks required for environmental review as expeditiously as possible to facilitate the timely processing of an EIR for the Proposed Project.
- Shared Regulatory Framework: Following certification of a Final EIR for the Proposed Project, but prior to or concurrent with any other Project Approvals under their respective jurisdictions, the City Council and the Port Board will consider any final legislative actions the parties mutually deem necessary to effectuate the shared regulatory framework contemplated in the MOU.
- General Plan and Zoning: The City and the Port will closely consult and confer with one another regarding the content of the proposed General Plan and zoning amendments to be presented to the City Council for its discretionary review, including, but not limited to, policy changes, land use map changes, and proposals to change land use designations. The zoning

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regulations may include establishment of a planned development zone and underlying site plans, new development standards and guidelines, and other implementing regulations.

- **Port Building Permits:** The Port specifically reserves its power and duty to issue Port building permits pursuant to Section 708 of the Charter; these building permits will be in addition to any other permits required by the City. Consistent with Section 5 of the ENTS, the Port will accept applications for, process, and consider approvals of all discretionary actions associated with the Port Building Permits.
- **Subdivision Maps:** The City will accept applications for, process, and consider approval of all tentative and final subdivision maps as required for build-out of the Proposed Project.
- **City Building Permits:** The City will accept applications for, process, and consider issuance of all permits for construction of buildings and infrastructure, including grading permits, as required for build-out of the Proposed Project.

The following two policy alternatives are before the City Council for consideration:

Alternative 1: Authorize the MOU. Authorizing the MOU provides implementation guidance and a clear entitlement pathway that the parties can follow in considering and evaluating the Proposed Project, processing applications, and preparing documents related to the Project Approvals.

Alternative 2: Do not authorize the MOU. If the MOU is not authorized, there will be continuing uncertainty regarding how the City and Port intend to cooperate in considering and, if approved, implementing, the Proposed Project.

### **FISCAL IMPACT**

There is no fiscal impact or cost to the City associated with execution of the MOU. The City has a Project Expense Payment Agreement with the Oakland A's, which covers the City's costs of evaluating the Proposed Project, including but not limited to staff time, consultant services, and legal review.

### **PUBLIC OUTREACH / INTEREST**

The MOU has been the subject of extensive discussions between Port and City staff. It provides an intra-departmental statement of intent and cooperation. Public outreach includes the public noticing of this report and proposed City Council action pursuant to the Brown Act and City Sunshine Ordinance.

### **COORDINATION**

The MOU has been coordinated between the Port and the following departments of the City: City Administrator's Office, Planning and Building Department and City Attorney's Office.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** The MOU outlines a coordinated City-Port process for review and consideration of the Proposed Project, which provides for a more efficient and thorough analysis than if the City and Port proceeded separately.

**Environmental:** The MOU is a nonbinding statement of intent and cooperation for processing of potential Project Approvals and will not have environmental impacts.

**Race and Equity:** The MOU is a nonbinding statement of intent and cooperation intended to facilitate review and consideration of the Proposed Project. Consistent with City policy, staff is working to ensure that the Proposed Project will, to the greatest degree possible, achieve equitable opportunities for all people and communities.

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

Nothing in the MOU should be interpreted to replace or eliminate the City's or the Port's independent judgment or discretion under CEQA, or as an approval or a pre-commitment to approve the Proposed Project or the final legislative action(s) to effectuate the regulatory framework contemplated in the MOU. The City and Port will retain full discretion, following completion of the CEQA process, to adopt mitigation measures or alternatives to the Proposed Project, including the "no-project" alternative.

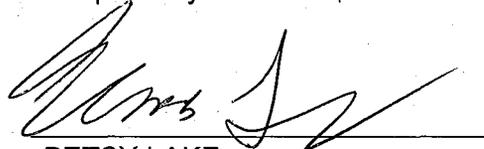
The MOU is a nonbinding statement of intent and cooperation and no final decision or action on the Proposed Project or the shared regulatory framework contemplated in the MOU will be undertaken unless and until each of the parties reviews, considers, and approves the final EIR for the Proposed Project. Further, the proposed MOU will not result in a direct or indirect physical change in the environment. As such, the authorization to enter into the proposed MOU is not in-and-of-itself a "project" pursuant to CEQA Guidelines Sections 15004, 15352 and 15378.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends that the City Council Adopt a Resolution Authorizing the City Administrator, or Designee, to Execute a Non-Binding Memorandum of Understanding between the City and the Port Regarding the Process of Review of Applications for, and, if Approved, the Anticipated Framework of Regulation of the Development Project Proposed by the Oakland Athletics at Howard Terminal.

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

Respectfully submitted,



BETSY LAKE  
Deputy City Administrator

Prepared by:  
Molly Maybrun, Project Manager III  
Real Estate and Major Projects

Attachments (1):

A – Memorandum of Understanding Between the City and Port Regarding Howard Terminal Oakland A's Ballpark Project

**MEMORANDUM OF UNDERSTANDING  
BETWEEN CITY AND PORT  
REGARDING HOWARD TERMINAL OAKLAND A'S BALLPARK PROJECT**

1. **Parties.** This MEMORANDUM OF UNDERSTANDING BETWEEN CITY AND PORT REGARDING HOWARD TERMINAL OAKLAND A'S BALLPARK PROJECT ("**MEMORANDUM OF UNDERSTANDING**") is made by and between the City of Oakland, a municipal corporation, acting by and through its City Council ("**City**") and the City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners ("**Port**"), which is a department of the City.

2. **Term.** This MEMORANDUM OF UNDERSTANDING is effective upon the date last signed and executed by the duly authorized representatives of the parties to this MEMORANDUM OF UNDERSTANDING. This MEMORANDUM OF UNDERSTANDING may be terminated, without cause, by either party upon written notice provided to the signatories below.

3. **Purpose and Background.**

3.1 The purpose of this MEMORANDUM OF UNDERSTANDING is to document the mutual understanding and intent of the City and the Port regarding the process of review of applications for, and, if approved, regulation of the development project proposed by the Oakland Athletics at Howard Terminal, which is anticipated to include a new, privately-funded, open-air major league ballpark; together with residential and mixed-use development, including retail, commercial, office, cultural, entertainment, hotel, and recreational uses that will be built in multiple phases over a period of many years ("**Proposed Project**").

3.2 This MEMORANDUM OF UNDERSTANDING is intended only as a nonbinding statement of intent, and no final decision or action on the Proposed Project or the shared regulatory framework contemplated herein will be undertaken until each of the parties review, consider, and approve the final Environmental Impact Report ("**EIR**") for the Proposed Project; therefore, this MEMORANDUM OF UNDERSTANDING is not a project for the purposes of the California Environmental Quality Act ("**CEQA**"). Nothing in this MEMORANDUM OF UNDERSTANDING establishes any precedent for any other projects, agreements, or arrangements that may exist now or in the future in the Port Area or on Port-owned property. This MEMORANDUM OF UNDERSTANDING will not be effective or apply in the event or to the extent that (a) the Proposed Project does not proceed at Howard Terminal, (b) the Proposed Project is approved, but any portion thereof reverts to uses not related to the Proposed Project, or (c) the Proposed Project is approved and this MEMORANDUM OF UNDERSTANDING is superseded by subsequent legislative action.

3.3 The City is a municipal corporation, enabled by authority vested through the Charter of the City of Oakland, adopted by the people of the City of Oakland on

November 5, 1968 and ratified and made effective by the California Secretary of State on January 28, 1969 (as amended, the “**Charter**”). As a charter city, the City has broad local authority with respect to land use planning and building permitting of lands lying within the City boundaries. Pursuant to the Charter, the City Council of the City (“**City Council**”) adopts the General Plan of the City, and zoning regulations in conformance with the General Plan, encoded as Chapter 17 of the City Municipal Code.

- 3.4 Article VII of the Charter vests in the Port of Oakland Board of Port Commissioners (“**Board**”), as a department of the City, the authority to control and manage certain lands of the City (referred to as the “**Port Area**”) in accordance with the Charter.
- 3.5 The Proposed Project is located on and adjacent to Howard Terminal along the Inner Harbor of the Oakland-Alameda Estuary and consists of approximately 55 acres of real property (“**Project Area**”), approximately 50 acres of which lie within the Port Area.
- 3.6 As a result, the development of the Proposed Project will require discretionary approvals from both the City and the Port, as well as other state, regional, and local agencies. Among other discretionary regulatory approvals, the Proposed Project will require certification of an EIR under CEQA, final legislative action to effectuate the shared regulatory framework contemplated herein, a General Plan amendment, new and revised zoning regulations, the filing of subdivision maps, and other related development permits. In addition, the Proposed Project will require Port Building Permits pursuant to Section 708 of the Charter, which is a discretionary regulatory approval by the Port for development projects in the Port Area. Finally, a Development Agreement has been requested by the Oakland Athletics (collectively as the “**Project Approvals**”).
- 3.7 The Port and City, without waiving any of their respective authorities and jurisdiction over lands within the Port Area, desire, consistent with Article VII of the Charter and CEQA, to cooperate to their mutual benefit to establish a shared regulatory framework that avoids administrative duplication, appropriately allocates regulatory land use authority between the City and Port, and facilitates the analysis of and, if approved by all applicable government agencies and entities, the development of the Proposed Project.
- 3.8 On May 13, 2019, pursuant to Port Resolution No. 19-32, the Board approved the Exclusive Negotiation Term Sheet dated May 13, 2019 with the Oakland Athletics (the “**ENTS**”). In addition to outlining preliminary negotiating terms for the Project, the ENTS states the Board’s authorization – pursuant to Section E(b) of the Purpose & Overview, and Section 5 of the ENTS – to develop an anticipated structure for a shared regulatory framework as outlined in this non-binding MEMORANDUM OF UNDERSTANDING. Following certification of a Final EIR for the Proposed Project, but prior to or concurrent with any other Project Approvals under their respective jurisdictions, the City Council and the Board will

consider any final legislative actions the parties mutually deem necessary to effectuate the shared regulatory framework contemplated herein.

- 3.9 More specifically, through this MEMORANDUM OF UNDERSTANDING, the Parties intend, during the pre-development application process: (i) to cooperate on the preparation of the EIR, (ii) to cooperate on the potential amendment of the General Plan, (iii) to jointly develop uniform zoning regulations applying to the Proposed Project in the Project Area, (iv) to allow the City to accept and process the planning and zoning development applications, including but not limited to applications for a Development Agreement (incorporating a comprehensive package of community benefits) and tentative subdivision map(s), along with other City permitting services necessary for the implementation of the Proposed Project, and (v) to coordinate the above with the Port's power and duty under the Charter and under Section 5 of the ENTS to take all actions associated with the Project-Wide Port Building Permit.

**4. Environmental Review.** The City, as the agency with principal responsibility for approving the Proposed Project with respect to its general governmental powers and its role as the anticipated first party to act with a binding discretionary action on the Proposed Project, is the Lead Agency under CEQA as follows:

- 4.1 Lead Agency. The Port and the City acknowledge and agree that, under CEQA and the CEQA Guidelines, including Public Resources Code section 21067, CEQA Guidelines sections 15050-15051, and related case law, the City is the lead agency responsible for environmental review of the Proposed Project based on several factors, including those summarized below. The City's responsibility for project approval is broader than the responsibility of the Port. The City has general governmental and police powers consistent with the Charter. The City further has exclusive authority over the approval of any change to the General Plan designation for the Project Area, which is the highest level of land-use approval required for the Proposed Project. All land-use regulations, zoning, development permits, and other approvals for the Proposed Project must conform to the City's amended General Plan. In addition, the Proposed Project includes residential development within the Port Area, which, pursuant to the Section 706 of the Charter, requires City Council consent through requisite legislation.

The Port and the City will act in good faith to undertake cooperative actions in connection with the preparation of the EIR for the Proposed Project, which include, but are not limited to the following efforts:

- a. Processing Duties. The City and the Port will use reasonable good faith efforts to consult, review, provide comments, and perform other tasks required for environmental review as expeditiously as possible, to facilitate the timely processing of the EIR for the Proposed Project.

- b. Staffing. The City and the Port will each provide and coordinate staffing to review and assist in processing the EIR.
  - c. EIR Consultant. The City will direct the work of EIR consultants, in accordance with the City's Consultant Guidelines for CEQA Consultants. In furtherance of the parties' cooperative approach to the CEQA process, the City will direct the EIR consultant to include analysis of the environmental impacts of certain issues of concern to or within the authority of the Port, including, for example, potential impacts to Port operations and/or maritime navigation. The City and the Port will jointly provide input on any issues of concern to the Port or within the jurisdiction of the Board, and the City will closely consult and coordinate with the Port prior to directing the EIR consultant on such issues.
  - d. Preparation of Draft EIR. The City and the Port will closely consult and confer regarding the content of the Draft EIR, including, but not limited to, the scope of the EIR, description of the environmental setting, appropriate baselines, significance thresholds, impact determinations, mitigation measures, and reasonable range of project alternatives. The City will provide the Port with copies of all administrative drafts of the Draft EIR and any specialized studies, memoranda or reports used to prepare the Draft EIR for review and comment. The Port will use reasonable good faith efforts to review and provide comments on drafts within the EIR schedule.
  - e. Final EIR. The City and the Port will consult regarding the preparation of the Final EIR, including preparation of Responses to Comments, revisions to the Draft EIR, and preparation of the Mitigation Monitoring and Reporting Program. The Port and the City will each independently review the administrative draft Final EIR and provide comments to each other within a reasonable period of time.
  - f. Public Notices and Proceedings. The City will prepare, publish, and circulate all CEQA-related public notices.
  - g. Documents. The City and the Port will consult and cooperate as the environmental review process develops to maintain a complete and organized record of documents to be included in any administrative record.
- 4.2 Independent Judgment and Discretion under CEQA. Nothing in this MEMORANDUM OF UNDERSTANDING is to be interpreted to replace or eliminate the City's or the Port's independent judgment or discretion under CEQA, and nothing is to be interpreted as an approval or a pre-commitment to approve the Proposed Project or the final legislative action(s) to effectuate the regulatory framework contemplated in 3.8 above, or as a decision to limit the parties' consideration of project alternatives and mitigation measures.

5. **General Plan and Zoning.** The City and Port intend to cooperate on the development of the General Plan amendment and zoning regulations as follows:

5.1 General Plan Amendment. The City is responsible for preparation of a General Plan amendment to govern the development of the Project Area. The City and the Port will closely consult and confer with one another regarding the content of the proposed General Plan amendment to be presented to the City Council for its discretionary review and approval, including, but not limited to, policy changes, land use map changes, and proposals to change land use designations. The Port will use reasonable good faith efforts to review and provide comments on any proposed General Plan amendment within a reasonable period of time.

5.2 Zoning Regulations. To ensure a cooperative and efficient process of regulation and to avoid duplication or conflicting rules, the Port agrees that the City will be primarily responsible for preparing the zoning regulations that will apply to the Project Area and govern the development of the Proposed Project. The zoning regulations may include establishment of a planned development zone and underlying site plans, new development standards and guidelines, and other implementing regulations (the “**Zoning Regulations**”). The City and Port will in good faith undertake cooperative actions in connection with the preparation of the Zoning Regulations as follows:

a. Preparation Duties. The City and the Port will use reasonable good faith efforts to consult each other, review, provide comments, and perform other tasks required for the processing of the Zoning Regulations as expeditiously as possible.

b. Staffing. The City and the Port will each provide and coordinate staffing to review and assist in processing the Zoning Regulations.

c. Preparing Zoning Regulations. To avoid duplication of regulation and permitting, it is anticipated that the City will consider, adopt, and eventually implement the Zoning Regulations. The City and the Port will closely consult and confer with one another in drafting the Zoning Regulations. The Port will use reasonable good faith efforts to review and provide comments on any proposed Zoning Regulations within a reasonable period of time.

d. Port Building Permit Regulations. The Port specifically reserves its power and duty to issue Port building permits pursuant to Section 708 of the Charter, which building permits will be in addition to any other permits required by the City. Consistent with the ENTS, the Port will accept applications for, process, and consider approvals of all discretionary actions associated with the Port building permits.

e. Public Notices and Proceedings. The City will prepare, publish, and circulate all public notices related to the Zoning Regulations. The Port will

prepare, publish, and circulate all public notices related to any Port actions, including any Port regulations relating to the Port Building Permits.

- f. Based on the foregoing and consistent with the anticipated zoning regulations, the City will accept from the Oakland Athletics, and process through the City framework, requisite planning applications for the Proposed Project.

## **6. Other Permits and Approvals.**

- 6.1 Subdivision Map Act. The City will accept applications for, process, and consider approval of all tentative and final subdivision maps as required for build-out of the Proposed Project.
- 6.2 City Building Permits. The City will accept applications for, process, and consider issuance of all construction building permits, including grading permits, as required for build-out of the Proposed Project.
- 6.3 Other Permits and Approvals. As noted in 3.6 above, in addition to the permits and discretionary land use actions specifically contemplated herein, the Proposed Project will require additional approvals from both the City and the Port, as well as other state, regional and local agencies, including but not limited to the State Lands Commission, the Bay Conservation and Development Commission, and the Department of Toxic Substances Control. The City and Port will cooperate to their mutual benefit in the processing of all permits and approvals required for the Proposed Project, using reasonable good faith efforts to consult with one another, review, provide comments, and perform any other tasks required as expeditiously as possible.

Further, the parties agree that, unless otherwise set forth in the Development Agreement or EIR, the City will, in its processing of the Project Approvals and building permits, apply all relevant requirements, ordinances, policies, and codes typically employed in its ordinary course of business, including but not limited to the City's requirements for stormwater treatment (including post-construction operations and maintenance and trash compliance), exterior lighting, creek protection, tree protection, the payment of fees pursuant to the City's Master Fee Schedule, and the handling of hazardous materials during Project construction and/or operation.

## **General Provisions.**

- 7.1 Nothing in this MEMORANDUM OF UNDERSTANDING is intended to limit or abridge the Port's control and management of the Port Department, the Port's power and duty to act for and on behalf of the City in the Port Area, or the Port's rights and duties under the Charter. Similarly, nothing in this MEMORANDUM

OF UNDERSTANDING is intended to limit or abridge the City's rights and duties under the Charter.

- 7.2 Each the City and the Port will bear its own costs in implementing the actions set forth in this MEMORANDUM OF UNDERSTANDING, or separately or jointly seek payment or reimbursement of costs from the Proposed Project applicant(s).
- 7.3 This MEMORANDUM OF UNDERSTANDING may be executed in counterparts, each of which shall be deemed an original instrument and all such counterparts, taken together, shall constitute one and the same instrument. Signatures delivered electronically shall be deemed effective as originals.

IN WITNESS WHEREOF, the Parties hereto have executed this MEMORANDUM OF UNDERSTANDING as of the Effective Date.

**CITY OF OAKLAND**

\_\_\_\_\_  
[Name]  
[Title]

Date: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
City Attorney  
City Resolution No. \_\_\_\_\_

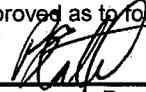
**PORT OF OAKLAND**

\_\_\_\_\_  
Danny Wan  
Executive Director

Date: \_\_\_\_\_

2020 JAN -2 AM 10:55

Approved as to form and legality



Deputy City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

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**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE A NON-BINDING MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY AND THE PORT REGARDING THE PROCESS OF REVIEW OF APPLICATIONS FOR, AND, IF APPROVED, THE ANTICIPATED FRAMEWORK OF REGULATION OF THE DEVELOPMENT PROJECT PROPOSED BY THE OAKLAND ATHLETICS AT HOWARD TERMINAL**

**WHEREAS**, the Oakland Athletics have proposed to build a new major league ballpark, together with residential and mixed-use development, including retail, commercial, office, cultural, entertainment, hotel, and recreational uses (the "Proposed Project"), in the City of Oakland ("City"); and

**WHEREAS**, the City is a municipal corporation, enabled by authority vested through its Charter, adopted by the people of the City of Oakland on November 5, 1968 and ratified and made effective by the California Secretary of State on January 28, 1969 (as amended, the "Charter"); and

**WHEREAS**, as a charter city, the City has broad local authority with respect to land use planning and building permitting of lands lying within the City boundaries; and

**WHEREAS**, Article VII of the Charter vests in the Port of Oakland (the "Port") Board of Port Commissioners, as a department of the City, the authority to control and manage certain lands of the City (referred to as the "Port Area") in accordance with the Charter; and

**WHEREAS**, the Proposed Project is located on and adjacent to Howard Terminal along the Inner Harbor of the Oakland-Alameda Estuary and consists of approximately 55 acres of real property, approximately 50 acres of which lie within the Port Area; and

**WHEREAS**, development of the Proposed Project will therefore require discretionary approvals from both the City and the Port, as well as other state, regional, and local agencies; now, therefore, be it

**RESOLVED:** That, to avoid administrative duplication, appropriately allocate regulatory land use authority between the City and Port, and facilitate the analysis of and, if

approved by all applicable government agencies and entities, the development of the Proposed Project, the City Council hereby authorizes the City Administrator, or her designee, to execute a non-binding Memorandum of Understanding Between City and Port Regarding Howard Terminal Oakland A's Ballpark Project ( the "City-Port MOU"); and be it

**FURTHER RESOLVED:** That the City Council finds and determines, after independent review and consideration, that this action results in no binding commitment by the City to authorize or advance the Proposed Project; will not result in a direct or indirect physical change in the environment; and does not constitute an "approval" of a "project" pursuant to CEQA Guidelines Sections 15004, 15352 and 15378; and be it

**FURTHER RESOLVED:** That the City Council hereby authorizes the City Administrator or his or her designee to negotiate and execute documents and take all other action necessary with respect to the City-Port MOU consistent with this Resolution and its basic purposes, as shall be approved for form and legality by the City Attorney.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

PASSED BY THE FOLLOWING VOTE:

AYES-  
NOES-  
ABSENT-  
ABSTENTION-

ATTEST: \_\_\_\_\_

LATONDA SIMMONS  
City Clerk and Clerk of the Council  
of the City of Oakland, California