



CUSTOMS BROKERS AND FORWARDERS ASSOCIATION
OF NORTHERN CALIFORNIA

May 13, 2019

Hon. Cestra Butner, President
Board of Port Commissioners
Port of Oakland
530 Water St.
Oakland, CA 94607

OPPOSE: Proposed Term Sheet for Proposed Howard Terminal Housing/Stadium Complex

Dear President Butner:

On behalf of the undersigned organizations, we respectfully OPPOSE the proposed Term Sheet agreement regarding Howard Terminal. This is yet another premature and unnecessary step towards the adoption of an Oakland A's Housing/Stadium Complex on the waterfront, and is an endorsement of a framework for moving forward with a project which presents a significant threat to the Seaport and its maritime customers, employees, tenants, and their business partners throughout the supply chain.

Adoption of this Term Sheet is a statement by the Port Commission that it is OK with the proposition that Howard Terminal might be turned into 3,000 units of dense, luxury housing, plus thousands of offices, a hotel, and a 35,000 seat stadium. A complex of this magnitude at this location would jeopardize the long-term financial health and viability of the Seaport. Not to mention that building housing here is not allowed under the provisions of the tidelands trust, the Seaport Priority plan designation, and the DTSC Deed Restrictions on the property.

If adopted, the Port is saying that it agrees with a framework for proceeding with a project that would give the Oakland A's the rights to do all of the following:

- Build a significant housing and commercial development in the middle of a working Seaport
- Remove productive maritime and maritime-auxiliary property from the waterfront and replace it with non-waterfront dependent or enhancing uses
- Entitle a project which will constrain the Port of Oakland's ability to grow future cargoes and to maximize the use of existing marine terminals
- Impair truck and vessel access to and from marine terminals with crippling new congestion
- Create significant and ongoing negative impacts on current operations of the tenants at the Port of Oakland and therefore frustrate new investment in terminals, jobs, and equipment
- Put at risk existing revenue bond indebtedness underwritten against these terminal revenues
- Hand-cuff future Turning Basin expansion into arbitrary and potentially unrealistic 5-year and 10-year windows

While we appreciate the many reservations of future discretion by the Port in this document, the adoption of a Term Sheet as a framework to continue discussions is not simply a preliminary agreement to continue to discuss options; if it were, the parties could have simply extended the existing Exclusive Negotiating Agreement. Instead, this is a road map that puts the A's on a path to their new complex.

This roadmap is problematic because the Term Sheet does not provide for a process to require in the lease that the Oakland A's abide by their promises to assure that there will be no negative impacts on the Port's maritime business. There is simply no leasing mechanism to enforce the future costs of providing assurances or mitigating impacts to the maritime community. If the Port had wanted to provide such assurances, it would have structured such provisions, just as it has for the Community Benefits Agreement section, up-front and in the lease provisions, enforceable against the A's.

If maritime competitiveness is still truly the Port's primary business focus, then the Port should make the elimination of any impacts on maritime business the principal focus of its negotiation with the A's.

However, aside from some of the progress made on the turning basin, maritime business impacts are put on a second tier in the Term Sheet, addressed well after the project has been entitled and lease terms decided and only at the building permit phase. There is no reason to believe that maritime business impact mitigation will be adequately funded, ongoing, or enforceable at a ministerial stage of the backend of project delivery. Instead, the Port should exercise its discretion in the best interests of its existing tenants, customers, employees, shippers, and the supply chain that relies on the Port now, when it has maximum leverage and unlimited discretion, rather than left to a future stage after the creation of rights and entitlements.

Of additional concern in this regard, the Port is now in this Term Sheet officially giving up its appropriate Lead Agency control of the Environmental Impact Report for this project. This is despite the fact that the rights, obligations, and duties for existing property management and development reside with the Port, the ENA for the property was entered into the Port creating the first action on this project, the revenues for the project are with the Port, the obligation to issue building permits are with the Port, the obligation to ask for a zoning or general plan conformity of the City are with the Port under the City Charter and such requests are limited under their applicability to state-granted lands managed in trust on behalf of the state regardless, most project-specific mitigation will most likely be principally carried out by the Port. These EIR responsibilities exist in addition to the Port's fiduciary and trustee duties as grantee of state property, which also are implicated by the lack of control over this EIR and project.

We respectfully ask that the Board of Port Commissioners refrain from approving the proposed Term Sheet for Howard Terminal at this time.

Sincerely,

American Waterways Operators
California Trucking Association
Customs Brokers and Forwarders Association of Northern California
Harbor Trucking Association
Pacific Merchant Shipping Association
Schnitzer Steel Industries
Transportation Institute

cc: Members, Board of Port Commissioners
Chris Lytle, Executive Director
Danny Wan, Port Attorney