

## AGENDA REPORT

**Resolution:** Approval to Reimburse the City of Oakland for General Services and Lake Merritt Trust Services Rendered in Fiscal Year 2017-18 **(Finance & Admin.)**

**MEETING DATE:** 12/13/2018

**AMOUNT:** \$2,464,359  
Non-Operating Expense

**PARTIES INVOLVED:** City of Oakland, CA  
Kirsten LaCasse, Controller

**SUBMITTED BY:** Sara Lee, Chief Financial Officer

**APPROVED BY:** Danny Wan, Acting Executive Director

**ACTION TYPE:** Resolution

### **EXECUTIVE SUMMARY**

This action would authorize the transfer of \$2,464,359 of Port funds to the City of Oakland for services related to general police, fire and street maintenance, as well as services associated with Lake Merritt.

### **BACKGROUND**

The City of Oakland (City) incurs annual costs to (a) provide certain services to the Port and (b) maintain Lake Merritt, which is State tidelands trust property managed by the City. Services provided to the Port are referred to as “General Services” and include items such as police, fire, and street maintenance. Services associated with Lake Merritt are referred to as “Lake Merritt Trust Services” and include items such as recreation services, grounds maintenance, security, and lighting.

Payments for these services are governed by the 1993 Eleventh Supplemental (General Services) and Twelfth Supplemental (Lake Merritt Tidelands) Agreements to the 1983 Memorandum of Understanding between the Port and the City. In accordance with these agreements the City bills the Port for the lesser of costs incurred, or a calculated cost cap based on the consumer price index (CPI). In addition, approval of the Board of Port Commissioners (Board) is needed to transfer moneys in the Port Revenue Fund (“Port funds”) to the City General Fund for General Services and Lake Merritt Trust Services.

The City has billed the Port a total of \$2,464,359 for General Services and Lake Merritt Trust Services in fiscal year (FY) 2017-18. This amount is 3.6% higher than the amount paid in FY 2016-17 and is based on the CPI increase in the last fiscal year.

## **ANALYSIS**

The use of Port funds is restricted in several ways:

- Port funds are tidelands trust funds and, as such, may be used only for trust-consistent purposes.
- Section 717(3) of the Charter of the City of Oakland (Charter) sets forth nine purposes, in order of priority, for which Port funds may be used. The transfer of funds to the City General Fund is the last (ninth) priority and may occur only if the Board determines that the other eight purposes are adequately addressed. The nine purposes, in order of priority, are summarized as follows:
  1. Payment of debt service that is due and payable on general obligation bonds of the City issued for Port purposes;
  2. Payment of debt service that is due or becoming due on Port-issued debt, including related payments (e.g., reserve fund payments);
  3. Payment of all costs of maintenance and operation of the Port's facilities;
  4. Payment to defray the expenses of pension or retirement plans;
  5. Investments in Port facilities (capital projects);
  6. Establishment of reserve or other funds to ensure the payment of debt associated with purpose (1);
  7. Establishment of reserve or other funds to ensure payment of debt associated with purpose (2);
  8. Establishment of other reserve funds; and
  9. Transfers to the City General Fund, to the extent Port funds are not needed for purposes one through eight.

## **BUDGET & STAFFING**

The proposed action does not have any budget or staffing impact.

## **MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)**

The matters included in this Agenda Report do not fall within the scope of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) and the provisions of the MAPLA do not apply.

## **STRATEGIC PLAN**

The action described herein would help the Port achieve the following goals and objectives in the Port's Strategic Business Plan (2018-2022).

<https://www.portofoakland.com/wp-content/uploads/Port-of-Oakland-Strategic-Plan.pdf>

- Goal: Grow Net Revenues. The municipal services described above are more appropriately and efficiently provided by the City.
- Goal: Care for Our Environment. Port payments contribute to the maintenance of public open space at Lake Merritt.

## **LIVING WAGE**

Living wage requirements, in accordance with the Port's Rules and Regulations for the Implementation and Enforcement of the Port of Oakland Living Wage Requirements, do not apply to this agreement because the City of Oakland is a government agency.

## **SUSTAINABILITY**

Port staff have reviewed the Port's 2000 Sustainability Policy and did not complete the Sustainability Opportunities Assessment Form. There are no sustainability opportunities related to this proposed action because it does not involve a development project, purchasing of equipment, or operations that presents sustainability opportunities.

## **ENVIRONMENTAL**

The proposal to authorize the transfer of Port funds to reimburse the City for services to maintain Lake Merritt and to provide other municipal services was reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines. CEQA only requires analysis of activities that are defined as a "project." The creation of government funding mechanisms or other government fiscal activities that do not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment is not a project pursuant to Section 15378(b)(4) of the CEQA Guidelines. Therefore, reimbursement of the City for services is a funding action and is not a project under CEQA.

## **GENERAL PLAN**

This action does not change the use of any existing facility, make alterations to an existing facility, or create a new facility; therefore, a General Plan conformity determination pursuant to Section 727 of the City of Oakland Charter is not required.

## **OWNER-CONTROLLED INSURANCE PROGRAM (OCIP)**

This action is not subject to the Port's Owner Controlled Insurance Program (OCIP) as it is not a capital improvement construction project.

## **OPTIONS**

1. Determine that \$2,464,359 exists in the Port Revenue Fund and is not needed for any of the first through eighth purposes set forth in Section 717(3) of the Charter, and direct Port staff to transfer said amount from the Port Revenue Fund to the City General Fund pursuant to the ninth purpose for reimbursement of General Services and Lake Merritt Trust Services for FY 2017-18. This is the recommended action.
2. Determine that such amount cannot be paid pursuant to the ninth purpose set forth in Section 717(3) of the Charter at this time, and direct Port staff to notify City staff that reimbursement of \$2,464,359 for General Services and Lake Merritt Trust Services for FY 2017-18 cannot be made at this time.

## **RECOMMENDATION**

Staff recommends that the Board:

Adopt a resolution determining that \$2,464,359 exists in the Port Revenue Fund and is not needed for any of the first through eighth purposes set forth in Section 717(3) of the Charter, and direct Port staff to transfer said amount from the Port Revenue Fund to the City General Fund pursuant to the ninth purpose for reimbursement of General Services and Lake Merritt Trust Services for FY 2017-18.