

AGENDA REPORT

Resolution: Approval of the Draft Port Share Plan for the Jack London Improvement District for Fiscal Year 2019 in the amount of \$168,571.80 **(CRE)**

MEETING DATE: 6/13/2019

AMOUNT: \$168,571.80 (FY 2019 Expense)
Operating Expense

PARTIES INVOLVED: Jack London Improvement District, Oakland, CA
Savlan Hauser, Executive Director

SUBMITTED BY: Pamela Kershaw, Director of Commercial Real Estate

APPROVED BY: J. Christopher Lytle, Executive Director

ACTION TYPE: Resolution

EXECUTIVE SUMMARY

The proposed action recommends approval of the Draft Port Share Plan for the Jack London Improvement District (“JLID”) for fiscal year 2019. Consideration and approval of the Draft Port Share Plan is required, pursuant to the terms of the Jack London Improvement District Public Trust Agreement (“Public Trust Agreement”), executed by the City of Oakland (“City”), Port of Oakland (“Port”), and JLID in 2013. Staff believes that the proposed Draft Port Share Plan for fiscal year 2019 is consistent with the terms of the Public Trust Agreement and recommends approval of this matter.

BACKGROUND

On July 16, 2013 the JLID was formed, after a majority approval vote was obtained from property owners within the Jack London District boundaries. The Port voted in support of the formation of the JLID, after executing a Public Trust Agreement with the City and the JLID Steering Committee, in collaboration with staff from the California State Lands Commission and Attorney General’s Office. The purpose of the JLID is to enhance and improve the greater Jack London District by providing various street beautification services, security patrols, marketing materials, directional signage, public art installations, and other similar services and amenities designed to improve the quality of life for District residents, businesses and property owners in the area, as well as to improve the visitor experience for patrons and stakeholders frequenting the District. The JLID is funded through a property tax assessment levied on all property owners within the District boundaries, the amount of which varies by land use type and location within the District. The City collects the property taxes owed on an annual basis,

and distributes those funds to the JLID pursuant to the terms of a Disbursement Agreement executed by the JLID and the City.

The Disbursement Agreement incorporates the provisions of the Public Trust Agreement both as an exhibit and in several specific references, to ensure that the use of the Port's assessment is consistent with Public Trust restrictions on the use of Port funds. The Public Trust Agreement requires that the JLID develop an annual budget or Draft Port Share Plan, detailing the intended uses of the Port assessment funds for the upcoming year, consistent with the limitations and conditions detailed in the Public Trust Agreement. This Draft Port Share Plan must be approved each year by the Board of Port Commissioners prior to the payment of the annual assessment amount to the City.

ANALYSIS

The proposed Draft Port Share Plan for fiscal year 2019 was provided to the Port in late April of 2019. The Plan proposes to utilize approximately \$145,419.00 of the total Port assessment of \$168,571.80 for Ambassador services to provide litter removal, graffiti removal, sidewalk plantings, and other streetscape cleaning and beautification efforts on streets and sidewalks leading to and abutting Jack London Square. A copy of the Draft Port Share Plan is attached as Exhibit A to this report for reference. These services continue to be a critical component of the JLID operations and help to address the street litter, unlawful dumping of trash, and graffiti issues that arise throughout the District regularly, among other tasks. The attachment provides greater detail on some of the services the Ambassador program provides for the JLID. The balance of the Port's assessed funds, which is \$23,153.00 will be refunded to the Port at the end of 2019 to pay for Port Provided Services (as that term is defined in the Public Trust Agreement) on Tidelands Trust properties owned by the Port in Jack London Square. The proposed allocation of Port assessed funds is the same as that approved by the Board of Port Commissioners in 2018, but with an increase in the total amount of the assessment due to the annual adjustment of 5% as well as adjustment of the land use ratio applied to Port lands due to use changes over last year, pursuant to the terms of the Disbursement Agreement.

Staff believes that the proposed Draft Port Share Plan is consistent with the terms of the Public Trust Agreement, and that the proposed services will provide a proportionate special benefit to the Trust. Based on the analysis, terms, and conditions contained within this report and the attachments to this report, staff recommends that the Board approve the Draft Port Share Plan for the JLID for fiscal year 2019. If the Board concurs with this recommendation and votes to approve the Draft Port Share Plan, the Port will then transmit the assessment amount of \$168,571.80 to the City Treasurer for disbursement into the JLID account.

BUDGET & STAFFING

The proposed Draft Port Share Plan assessment amount is anticipated each year in the operating budget as a non-departmental operating expense, as such there is no budget impact from the proposed action to approve this matter.

The review and approval of the Draft Port Share Plan does not result in the need for any

additional staffing in the Commercial Real Estate Division.

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The work performed under this contract is not within the scope of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) and the provisions of the MAPLA do not apply to this work.

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: Serve Our Community
- Goal: Care for Our Environment

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 (the "Living Wage Regulations"), do not apply to this agreement as the financial assistance recipient does not principally provide services related to maritime or aviation business and is not located in the maritime or aviation areas of the Port. However, the financial assistance recipient will be required to certify that should living wage obligations become applicable, the recipient shall comply with the Living Wage Regulations

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

This action was reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA). The CEQA Guidelines, Section 15061(b)(3) ("the general rule") states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Approving the Draft Port Share Plan for the Jack London Improvement District will not have a significant effect on the environment and therefore is not a project under CEQA. No further environmental review is required.

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)

The Owner Controlled Insurance Program (OCIP) does not apply to the matters addressed by this Agenda Report as they are not capital improvement construction projects.

OPTIONS

1. Approve the Draft Port Share Plan for the Jack London Improvement District for Fiscal Year 2019 as recommended in this Agenda Report and find that each proposed service and expenditure described in the Draft Port Share Plan is consistent with the Trust and the Public Trust Agreement and that the JLID has established by objective analysis that the Trust will receive a proportionate special benefit. This is the recommended option.
2. Do not approve the Draft Port Share Plan for the Jack London Improvement District for Fiscal Year 2019, which will require that the Port provide written justification for why the proposed Plan is not consistent with the Jack London Public Trust Agreement and will require that the JLID submit a new proposed Port Share Plan for Port consideration.
3. Approve the Draft Port Share Plan for the Jack London Improvement District for Fiscal Year 2019, but with modifications to the allocations and services proposed, which depending on the nature of the modifications, may result in renegotiation of the budget for the JLID and may or may not be feasible with respect to the provision of services during the current fiscal year.

RECOMMENDATION

Adopt a resolution to approve the Draft Port Share Plan for the Jack London Improvement District for Fiscal Year 2019 in the amount of \$168,571.80, as recommended in this Agenda Report, and find that each proposed service and expenditure described in the Draft Port Share Plan is consistent with the Trust (as defined in the Public Trust Agreement), and the Public Trust Agreement, and that the JLID has established by objective analysis that the Trust will receive a proportionate special benefit.

Attachment: Draft Port Share Plan for FY2019