

## AGENDA REPORT

**Resolution:** Adoption of a Resolution to Approve and Authorize the Board President to Execute a Retirement and Advisory Services Agreement with J. Christopher Lytle; to Certify that Mr. Lytle has Specialized Skills Needed in Performing Work of a Limited Duration to fill a Critically Needed Position; to Certify that Mr. Lytle's Services Shall be Limited to 960 hours for the 2019-20 Fiscal Year and that No Other Benefit, Incentive or Other Compensation has been Provided in Addition to His Hourly Pay Rate; and, to Certify that Mr. Lytle's Hourly Rate will be \$193.21 (**Executive Office**)

**MEETING DATE:** 7/25/19

**AMOUNT:** \$185,481.60 for FY 19-20  
Operating Expense

**PARTIES INVOLVED:** J. Christopher Lytle

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

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

**ACTION TYPE:** Resolution

### **EXECUTIVE SUMMARY**

Under the direction of the Board, Port staff and Mr. Lytle have negotiated the terms of a "Retirement and Advisory Services Agreement" ("Agreement") that will allow Mr. Lytle to utilize his specialized skills for a limited duration as a retired annuitant for the Port through, but no later than, December 31, 2019. A copy of the Agreement is attached as Exhibit A to the Draft Resolution and its terms are summarized in this report; Mr. Lytle has indicated that the Agreement is acceptable to him. Pursuant to the requirements of the California Public Employees' Retirement System ("CalPERS"), a retired person is not eligible to be employed for a period of 180 days following the date of his retirement unless certain conditions are met. Those conditions are set forth in Government Code Sections 7522.56 & 21224 and, if satisfied, they create an exception to the 180-Day wait period. It is recommended that the Board, by resolution, authorize the President of the Board to enter into the Agreement with Mr. Lytle and to certify certain conditions as outlined in this report to be eligible for and to utilize the 180-day waiting period exception.

## **BACKGROUND**

Mr. Lytle was appointed Executive Director by the Board of Port Commissioners ("Board") on June 13, 2013. Mr. Lytle served a three (3) year employment contract that expired on June 23, 2016. At its June 24, 2016 meeting, the Board extended Mr. Lytle's contract for three (3) years through July 21, 2019. After six (6) years serving as Executive Director, Chris Lytle made the decision to retire from the Port on July 22, 2019. Mr. Lytle held the position of Executive Director of the Port of Long Beach prior to his employment by the Board.

An Agreement to retain Mr. Lytle as a retired annuitant through December 31, 2019, such retention not to exceed nine hundred sixty (960) hours, has been negotiated.

## **ANALYSIS**

In 2013, Mr. Lytle was appointed by the Board as Executive Director for the Port of Oakland. Since 2013, and during Mr. Lytle's tenure, the Port has experienced significant growth at the Oakland International Airport, record business volume at the seaport, a revitalization of Jack London Square, long awaited development at the former Oakland Army Base, and the development and implementation of a five-year strategic plan for the Port as well as an Air Quality 2020 and Beyond Plan that will steer the Port toward zero emissions seaport operations. Under Mr. Lytle's leadership, the Port enhanced its economic footprint in the region as an engine for job creation and commerce. The Port has become a responsible partner to the community through its environmental stewardship and endeavor to provide opportunities to small local businesses. After six (6) years as Executive Director of the Port, and an accomplished fifty-three (53) year career in trade and transportation, Mr. Lytle is retiring from the Port of Oakland effective July 22, 2019. His experience in trade and transportation and his specific experience and achievements at the Port have provided him with specialized skills that the Port wishes to utilize in his capacity as a retired annuitant.

To assure business and operational continuity, the proposed Agreement with Mr. Lytle allows him to utilize his specialized skills as a retired annuitant through, but no longer than, December 31, 2019 while the Port engages in an executive search for his successor. In his role as Advisor to the Executive Director, Mr. Lytle's duties will include, but not be limited to, providing advice and counsel on: the means and methods to assure organizational and business continuity; communication contact points with Port tenants, customers, and stakeholders during the transition period while the Port engages in an Executive search for a new Executive Director; and, any other advice and counsel as deemed needed by the Port. Mr. Lytle's Agreement will expire on December 31, 2019.

Government Code Section 7522.26(f) provides that a retired person shall not be eligible to be employed as a retired annuitant for a period of 180 days following the date of his retirement unless certain conditions are met. If met, those conditions create a 180-Day Wait Period Exception. Accordingly, the Board will need to certify the following in order to take advantage of the 180-Day Wait Period Exception: that Mr. Lytle has specialized skills needed to perform work of a limited duration; that the limited duration shall not exceed 960 hours and shall not last beyond December 31, 2019; that Mr. Lytle has not and will not receive any other benefit,

incentive, compensation in lieu of benefit or other form of compensation in addition to his hourly pay rate; that his hourly rate will be \$193.21; and, that Mr. Lytle's appointment is necessary for the Port to utilize his specialized skills to fill a critically needed position. Use of this exception is critical to the business continuity of the Port.

A summary of the terms of the draft Agreement is outlined in the Budget and Staffing section of this report.

## **BUDGET & STAFFING**

The proposed Agreement between the Board of Port Commissioners and J. Christopher Lytle provides for his retention as a retired annuitant; a general release; and, compensation during the term of the agreement. The agreement provides for an hourly rate of \$193.21. The cost of the agreement is \$185,481.60.

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

The matters contained 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**

By this action, the Board believes that Mr. Lytle will utilize his specialized skills to provide internal and external continuity during this period of transition as the Port endeavors to achieve its community, operational and business policy goals and objectives.

## **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 because the requested action is not an agreement, contract, lease, or request to provide financial assistance within the meaning of 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**

The matters contained in this Agenda Report were reviewed in conjunction with the requirements of the California Environmental Quality Act (CEQA) and the Port's CEQA

Guidelines. The requested Board actions are not projects pursuant to CEQA Guidelines, Sections 15060(c)(3) and 15378(b)(2), and no 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)/ PROFESSIONAL LIABILITY INSURANCE PROGRAM (PLIP)**

The Owner Controlled Insurance Program (OCIP) and Professional Liability Insurance Program (PLIP) do not apply to the matters addressed by this Agenda Report as they are not capital improvement construction or design projects.

### **OPTIONS**

1. The Board enact the Resolution necessary to approve and authorize the Board President to execute a Retirement and Advisory Services Agreement with J. Christopher Lytle; certify that Mr. Lytle has specialized skills needed in performing work of a limited duration to fill a critically needed position; certify that Mr. Lytle's services shall be limited to 960 hours for the 2019-20 Fiscal Year and that no other benefit, incentive or other compensation has been provided in addition to his hourly pay rate; and, certify Mr. Lytle's hourly rate of \$193.21.
2. The Board not enact the proposed Resolution necessary to approve and authorize the Board President to execute a Retirement and Advisory Services Agreement with J. Christopher Lytle; certify that Mr. Lytle has specialized skills needed in performing work of a limited duration to fill a critically needed position; certify that Mr. Lytle's services shall be limited to 960 hours for the 2019-20 Fiscal Year and that no other benefit, incentive or other compensation has been provided in addition to his hourly pay rate; and, certify Mr. Lytle's hourly rate of \$193.21.
3. Take no action.

### **RECOMMENDATION**

It is recommended that the Board, by Resolution, approve and authorize the Board President to execute a Retirement and Advisory Services Agreement with J. Christopher Lytle; certify that Mr. Lytle has specialized skills needed in performing work of a limited duration to fill a critically needed position; certify that Mr. Lytle's services shall be limited to 960 hours for the 2019-20 Fiscal Year and that no other benefit, incentive or other compensation has been provided in addition to his hourly pay rate; and, certify Mr. Lytle's hourly rate of \$193.21.