

## AGENDA REPORT

**Resolution:** Authorization to Execute an Agreement with the City of Oakland for Reformation and Maintenance Costs Related to Community Facilities District No. 2015-1, for an Amount Not to Exceed \$369,015 For Certain Costs For Fiscal Years 2018-19 and 2019-20. **(Maritime)**

**MEETING DATE:** 11/21/2019

**AMOUNT:** \$369,015  
Operating Expense

**PARTIES INVOLVED:** City of Oakland

**SUBMITTED BY:** John C. Driscoll, Director of Maritime

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

**ACTION TYPE:** Resolution

### **EXECUTIVE SUMMARY**

Port staff is requesting authorization to enter into an agreement with the City of Oakland (City) to pay the City approximately \$369,015 for reformation and maintenance costs related to Community Facilities District No. 2015-1 ("CFD"). The Port's payment is fifty percent (50%) of the City's total CFD reformation costs already incurred for FY 2018-19, and 50% of the expected annual FY 2019-20 maintenance costs. Any unspent maintenance funds would be returned to the Port on a pro-rated basis, or applied against the Port portion of the CFD. The proposed agreement does not annex Port property into the CFD.

### **BACKGROUND**

On June 16, 2015, by City Resolution No. 85722, the City of Oakland (City) established Community Facilities District No. 2015-1 (Gateway Industrial District or "the CFD") to provide funds to maintain certain City-owned and City-maintained public improvements within the former Oakland Army Base (OAB). These improvements, which serve both City and Port tenants, include roadways, storm drains, landscaping, rail crossings, and other related infrastructure recently constructed in and around the former OAB. Under the provisions of the CFD, the City assesses a tax annually to tenants within the CFD to maintain these public improvements. The City collected approximately \$538,000 from its tenants in the CFD for Fiscal Year (FY) 18-19 maintenance costs.

The City and Port have been in discussions regarding the possible annexation of certain Port property into the CFD, notably former OAB property now owned by the Port (See Exhibit 1). Port staff have estimated that this Port property will benefit from approximately 50% of the new infrastructure being maintained with the CFD funds. The discussions to annex certain Port property into the CFD are ongoing, as the City and Port work toward resolution of outstanding issues. It is currently expected that the subject Port property will be annexed into the CFD by June 30, 2020, which would subject Port tenants on such property to the CFD tax starting FY 2020-21.

In the interim, the City has already expended funds to maintain the improvements and administer the CFD, and has requested the Port contribute 50% of the FY 2019-20 maintenance costs. Port staff believes this request is appropriate.

## **ANALYSIS**

### **Reformation Cost**

The City and Port have been in discussions on CFD reformation for the purpose of annexing certain Port property in the CFD. As such, the City included \$100,000 in the FY 2018-19 CFD budget for legal, consulting, administrative, and filing costs associated with the potential reformation. The Port has agreed to cost-share and reimburse the City \$50,000, or 50%, of the CFD reformation costs. The City has not included any CFD reformation costs in the FY 2019-20 budget.

### **Maintenance Costs**

The City anticipates a total CFD maintenance cost of approximately \$638,029 for FY 2019-20. Port and City staff have agreed to a letter agreement, which sets forth the following terms for the Port's contribution to the City's CFD maintenance costs for public improvements (See Exhibit 2).

- Port would pay the City \$319,014.27 (rounded to \$319,015) by December 31, 2019. This amount represents 50% of the City's estimated FY 2019-20 maintenance costs for the CFD.
- If, by June 30, 2020, the City has underspent relative to the budgeted amount of \$638,029, the City will reimburse the Port its pro-rata share of unspent funds by August 31, 2020, as follows:
  - Credit 50% of the unspent funds toward the Special Tax levy in fiscal year 2020-21 on Tax Zone 2 (i.e., the Port tax zone within the CFD) if Port property has been annexed to the CFD; or
  - If the Port has not been annexed to the CFD by June 30, 2020, reimburse

the Port 50% of the unspent funds directly to the Port.

### **Summary**

In aggregate, the Port would pay the City up to \$369,015 in FY 2019-20 based on the terms of the proposed agreement. The proposed agreement only provides a payment mechanism to offset City costs associated with the CFD in FY 2018-19 and FY 2019-20; it does not annex Port property into the CFD. Annexation will be the subject of separate consideration and action by the Board. Based on the City's maintenance expenditures in FY 2018-19, Port staff expects, but cannot guarantee, a reimbursement for FY 2019-20.

Port and City staff continue to work together to resolve outstanding issues for annexation into the CFD. These issues include performance standards/schedules, advisory/oversight procedures, and the equitable separation of costs between the City and Port tax zones. Significant progress has been made and staff expects to ask the Board to consider annexation into the CFD in the first quarter of 2020.

### **BUDGET & STAFFING**

Staff included \$375,000 in the Maritime Division FY 2019-20 operating expense budget for CFD-related costs. This amount was intended to help off-set CFD tax costs to tenants in the first year of taxation, if necessary, but can be used instead for the proposed contribution to the City for CFD reformation and maintenance costs. Therefore, the proposed agreement has no budgetary impact in FY 2019-20. This action does not have an impact on Port staffing.

### **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: Modernize and Maintain Infrastructure

### **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.

## **ENVIRONMENTAL**

*CEQA Determination:* The proposal to enter into an Agreement with the City of Oakland for Maintenance Costs Related to the CFD was reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA). 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. In addition, continuing administrative or maintenance activities, personnel-related actions, general policy and procedure making are not projects pursuant to Section 15378(b)(2) of the CEQA Guidelines. Therefore, this proposal is not a project under CEQA. Any future projects funded by the CFD would be subject to environmental review when they are proposed for implementation.

## **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**

Port staff has identified the following options for the Board's consideration:

1. Authorize the Executive Director to Enter into an Agreement with the City of Oakland for Reformation and Maintenance Costs (FYs 2018-19 and 2019-20) Related to Community Facilities District No. 2015-1 for an Amount Not to Exceed \$369,015.
2. Do not authorize the Executive Director to Enter in an Agreement with the City of Oakland. Under this option, the City will maintain the CFD improvements using funds available from its tenants who are subject to the CFD tax. Such funds may

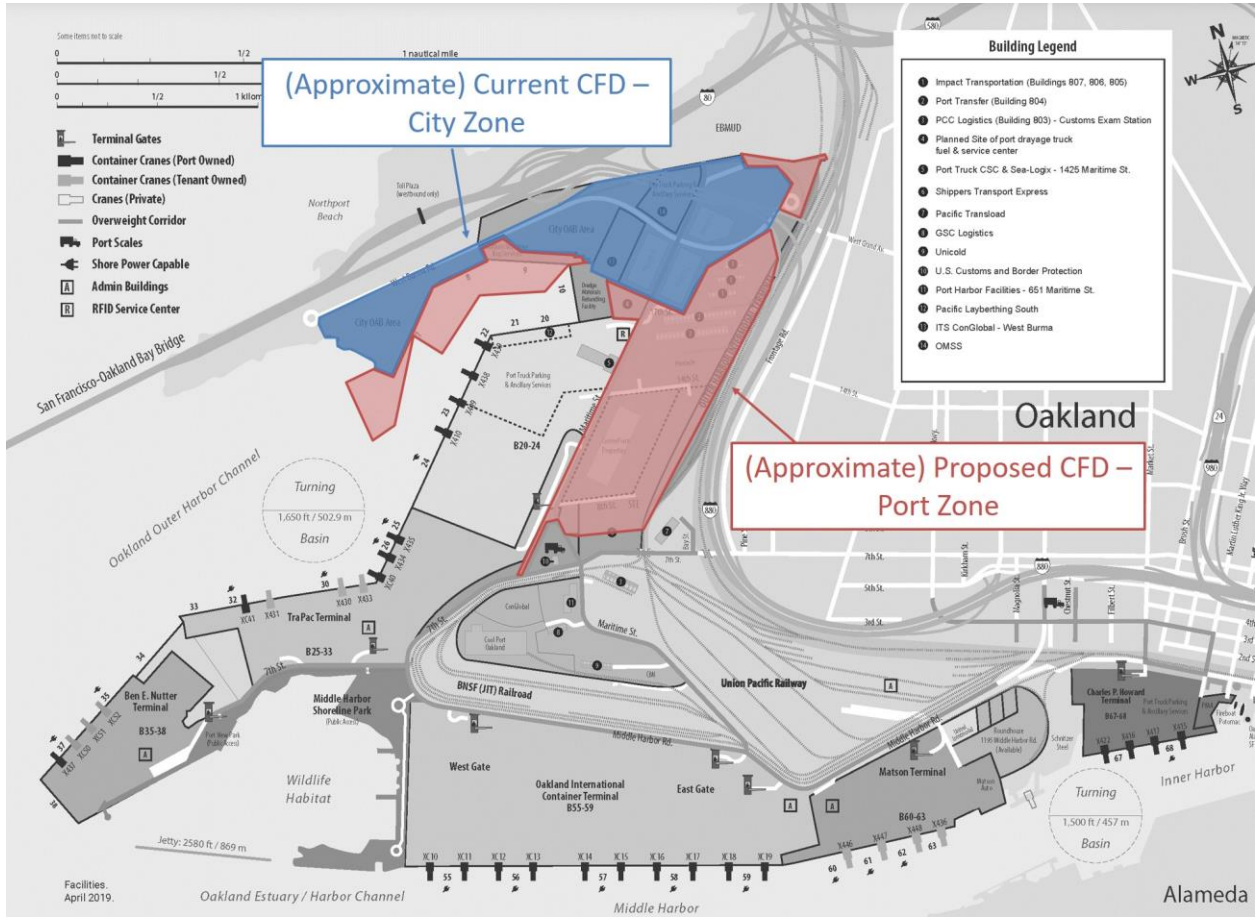
not be sufficient to perform all the planned maintenance, in which case certain items would likely be deferred.

### **RECOMMENDATION**

Port staff recommends that the Board authorize the Executive Director to Enter execute an agreement with the City of Oakland for Reformation and Maintenance Costs Related to Community Facilities District No. 2015-1 for an Amount Not to Exceed \$369,015 for FYs 2018-19 and 2019-20.

## Exhibit 1

### Current and Proposed CFD No. 2015-1 Boundaries



## Exhibit 2

### CFD No. 2015-1 Public Improvements

City of Oakland  
Community Facility District No. 2015-01  
Public Improvements-DRAFT

