

AGENDA REPORT

Resolution: Authorization to Execute a Letter 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 \$152,281.73 for Fiscal Years 2019-20 and 2020-21. **(Maritime)**

MEETING DATE: 12/17/2020

AMOUNT: \$152,281.73
Operating Expense

PARTIES INVOLVED: City of Oakland

SUBMITTED BY: Bryan Brandes, Director of Maritime

APPROVED BY: Danny Wan, Executive Director

ACTION TYPE: Resolution

EXECUTIVE SUMMARY

Port staff is requesting authorization to enter into a letter agreement with the City of Oakland (City) to pay the City \$152,282.73 for reformation and maintenance costs related to Community Facilities District No. 2015-1 (CFD). The Port's payment is 50% of the City's unanticipated costs for CFD reformation costs for FY 2019-20, 50% of the City's budgeted CFD reformation costs for FY 2020-21, and 50% of the budgeted annual FY 2020-21 maintenance costs. Any unspent funds would be returned to the Port on a pro-rated basis or applied against the Port portion of the CFD if certain Port property were annexed into 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 (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 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. At the earliest, the subject Port property may be annexed into the CFD by June 30, 2021, which would subject Port tenants on such property to the CFD tax starting FY 2021-22. Costs related to the Port's annexation are called "reformation costs." Costs related to maintenance of infrastructure are simply called "maintenance costs". In the interim, the City has and continues to expend funds to maintain the improvements and administer the CFD.

FY 2018-19 and FY 2019-20

For FY 2019-20, the City budgeted \$638,028.54 for maintenance. For FY 2018-19 and FY 2019-20 combined, the City budgeted \$100,000 for reformation. The City requested the Port contribute 50% of these costs. Port staff recommended and the Board of Port Commissioners (Board) approved this request and the Port paid the City \$369,014.27. As of June 30, 2020, the City had spent \$227,792.59 on maintenance (underspent) and \$116,402.41 on reformation (overspent).

FY 2020-21

The City has requested the Port contribute 50% of its budgeted costs for FY 2020-21. The City has budgeted \$623,396.99 for maintenance and \$75,000 for reformation.

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 \$75,000 in the FY 2020-21 CFD budget for legal, consulting, administrative, and filing costs associated with the potential reformation. Staff proposes to cost share and reimburse the City \$37,500, or 50%, of the CFD reformation costs. Staff also proposes to cost share the \$16,402.41 of unanticipated reformation costs incurred by the City in FY 2019-20, resulting in an additional reimbursement of \$8,201.21.

Maintenance Costs

The City anticipates a total CFD maintenance cost of \$623,396.99 for FY 2020-21; the Port share is 50% or \$311,698.50. However, the Port is owed a credit for unspent funds in FY 2019-20, in the amount of \$205,117.98. Therefore, the amount due for the Port's maintenance cost share for FY 2020-21 is \$106,580.52. The table below summarizes the past and proposed payments to the City.

	FY 2018-19 and FY 2019-20	Proposed FY 2020-21
REFORMATION		
Total Budgeted Reformation Costs	\$ 100,000.00	\$ 75,000.00
Total Actual Reformation Costs	\$ 116,402.41	
Port Share of Budgeted Reformation Costs (50%)	\$ 50,000.00	\$ 37,500.00
Port Share of Total Actual Reformation Costs (50%)	\$ 58,201.21	
Prior Port Payment	\$ 50,000.00	
Credit Due Port/(Amount Owed by Port)	\$ (8,201.21)	
MAINTENANCE		
Total Budgeted Maintenance Costs	\$ 638,028.54	\$ 623,396.99
Total Actual Maintenance Costs	\$ 227,792.59	
Port Share of Total Budgeted Maintenance Costs (50%)	\$ 319,014.27	\$ 311,698.50
Port Share of Total Actual Maintenance Costs (50%)	\$ 113,896.30	
Prior Port Payment	\$ 319,014.27	
Credit Due Port/(Amount Owed by Port)	\$ 205,117.98	
Total Port Payment to City Before Credit	\$ 369,014.27	\$ 349,198.50
Credits Due Port for Prior Year		\$ (205,117.98)
Amounts Owed by Port for Prior Year		\$ 8,201.21
Total Net Port Payment to City	\$ 369,014.27	\$ 152,281.73

Letter Agreement

Port and City staff propose to enter into a letter agreement, which sets forth the following terms for the Port's contribution to the City's CFD costs for public improvements (See Exhibit 2), in accordance with the above table. This letter follows the template of the letter agreement for prior FYs discussed above.

- Port would pay the City \$8,201.21 by February 5, 2021 for unanticipated reformation costs incurred by the City in FY 2019-20.
- Port would pay the City \$37,500 by February 5, 2021. This amount represents 50% of the City's estimated FY 2020-21 reformation costs for the CFD.
- Port would pay the City \$106,580.52 by February 5, 2021. This amount represents 50% of the City's estimated FY 2020-21 maintenance costs for the CFD, net of the Port's credit for unspent funds in FY 2019-20.
- If, by June 30, 2021, the City has underspent relative to the FY 2020-21 CFD Budget, the City will reimburse the Port its pro-rata share of unspent funds by August 31, 2021, as follows:

- Credit 50% of the unspent funds toward the Special Tax levy in fiscal year 2021-22 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, 2021, reimburse the Port 50% of the unspent funds directly to the Port.

The proposed agreement only provides a payment mechanism to offset City costs associated with the CFD in FY 2019-20 and FY 2020-21; it does not annex Port property into the CFD. Annexation would be the subject of separate consideration and action by the Board. Based on the City's maintenance expenditures in FY 2019-20, Port staff expects, but cannot guarantee, a reimbursement for FY 2020-21.

Port and City staff continue to work together to resolve outstanding issues for annexation into the CFD. These issues include performance standards and maintenance schedules, identification of improvements included in the CFD, advisory and oversight procedures, and the equitable separation of costs between the City and Port tax zones.

BUDGET & STAFFING

Staff recommends a payment to the City in FY 2020-21 of \$152,281.73 for all the costs outlined above, net of the Port's credit for unspent funds in FY 2019-20. Staff included \$375,000 in the Maritime Division FY 2020-21 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 would result in a savings of about \$223,000 in FY 2020-21. 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.portoakland.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

The proposal to enter into an Agreement with the City of Oakland for maintenance and reformation 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 a letter agreement with the City for reformation and maintenance costs (FYs 2019-20 and 2020-21) related to the CFD for an amount not to exceed \$152,281.73.
2. Do not authorize the Executive Director to Enter in a letter agreement with the City of Oakland for costs related to the CFD. 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 execute a letter 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 \$152,281.73 for Fiscal Years 2019-20 and 2020-21.

Exhibit 1

Current and Proposed CFD No. 2015-1 Boundaries



