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**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

**RESOLUTION APPROVING 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 CERTAIN COSTS
FOR FISCAL YEARS 2019-20 AND 2020-21.**

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item No. 2.9, dated December 17, 2020 ("Agenda Report") and related agenda materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; and

WHEREAS, that in acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in related agenda materials and in testimony received; and

WHEREAS, the City of Oakland (the "City") has established Community Facilities District No. 2015-1 (Gateway Industrial District)(the "CFD") to provide funds to maintain certain City-owned and City-maintained public improvements within the former Oakland Army Base ("OAB"); and

WHEREAS, the City and the Port staff have been in discussions for the CFD to annex certain Port owned OAB property, whereby the Port tenants on such Port-owned property would be assessed a special tax; and

WHEREAS, for Fiscal Year 2019-20, the City budgeted \$638,028.54 for maintenance costs, and for Fiscal Years 2018-19 and 2019-20 combined, the City budgeted \$100,000 for reformation costs. The City requested the Port contribute 50% of these costs. In November 2019, Port staff recommended and the 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); and

WHEREAS, the City anticipates that the total CFD maintenance cost for Fiscal Year 2020-21 will be approximately \$623,396.99 and \$75,000

for reformation costs, and has requested that the Port pay half of such costs; and

WHEREAS, the City has requested a total of \$152,281.73 for reformation and maintenance costs related to the CFD for Fiscal Years 2019-20 and 2020-21, which is comprised of \$37,500.00 for Fiscal Year 2020-21 reformation costs, plus \$311,698.50 for Fiscal Year 2020-21 maintenance costs, plus \$8,201.21 for Fiscal Year 2019-20 reformation costs, less \$205,117.98 credit from unspent Fiscal Year 2019-20 maintenance costs;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. Based upon the information contained in the Agenda Report and testimony received, the Board hereby:

A. Authorizes the payment of an amount not to exceed \$152,281.73 for reformation and maintenance costs related to the CFD for Fiscal Years 2019-20 and 2020-21; and

B. Authorizes the Executive Director to enter into a letter agreement with the City to pay reformation and maintenance costs related to the CFD for an amount not to exceed \$152,281.73 for Fiscal Years 2019-20 and 2020-21, subject to approval as to form and legality by the Port Attorney.

Section 2. This resolution is not evidence of and does not create or constitute (a) a contract, or the grant of any right, entitlement or property interest, or (b) any obligation or liability on the part of the Board or any officer or employee of the Port. Unless and until a separate written agreement is duly executed on behalf of the Board as authorized by this resolution, is signed as approved as to form and legality by the Port Attorney, and is delivered to other contracting party, there shall be no valid or effective agreement.

Section 3. This resolution shall be effective immediately upon adoption by the Board.