

STAFF REPORT FOR CALENDAR ITEM NO.: 8.2
FOR THE MEETING OF: September 9, 2021

TRANSBAY JOINT POWERS AUTHORITY

BRIEF DESCRIPTION:

Authorize the TJPA Custodian of Records to apply to the California Department of Justice for access to local and state level summary criminal history information for employment and licensing purposes.

EXPLANATION:

Through a Request for Qualifications, TJPA is in the process of soliciting for entities and individuals capable of providing high quality activation in Salesforce Park. Selected pre-qualified activators will fill programming slots as they become available, as managed by Biederman Redevelopment Ventures (BRV), under direction from TJPA staff and our Asset Management team at Lincoln Property. Programming will include music, dance, exercise/fitness, cultural activities, hobbies (photography, birding, etc.) and other activities. Some of the programming will be focused on youth, from toddlers to teens.

State law prohibits a local public agency from hiring (as an employee or independent contractor), or accepting as a volunteer, a person in a position having supervisory or disciplinary authority over minors at certain park and recreational facilities if the person has been convicted of certain criminal offenses. (Public Resources Code section 5164.)

To implement the state law requirement for individuals who directly interact with youth, a local public agency may request the California Department of Justice provide a summary criminal history investigation based on applicant fingerprints (also known as “Live Scan”). State law also permits such background investigations for prospective public agency employees.

In order for TJPA to receive the summary criminal history information, TJPA must apply for authorization to the California Department of Justice. (Penal Code section 11105(b)(11).) State law requires the TJPA Board of Directors to specifically authorize TJPA to access this information before TJPA submits the application to the state.

State law provides that the information received through the Live Scan process is confidential; may only be used for employment, licensing, certification, and volunteer clearances; and may not be disseminated to private entities. To help implement these protections, the receiving entity is required to designate a Custodian of Records. The Custodian of Records for purposes of criminal history information is the TJPA Chief of Staff.

FINANCIAL IMPACT:

The financial impact of this authorization is negligible, given that once TJPA is an authorized entity, prospective licensees, employees, contractors or volunteers would submit a Live Scan application directly to the Department of Justice, and upon submittal, tender the processing fee directly to the state. The results of the Live Scan are then provided by the state to TJPA to assist in TJPA’s decision-making regarding the prospective applicant. The only initial costs are in

processing the Custodian of Records application form and the Live Scan of the Custodian (a total cost to TJPA of \$79.00).

RECOMMENDATION:

Staff recommends that the Board authorize the TJPA Custodian of Records to apply to the California Department of Justice for access to local and state level summary criminal history information for employment and licensing purposes.

ENCLOSURE:

1. Resolution

**TRANSBAY JOINT POWERS AUTHORITY
BOARD OF DIRECTORS**

Resolution No. _____

WHEREAS, Penal Code Sections 11105(b)(11) and 13300(b)(11) authorize cities, counties, districts and joint powers authorities to access state and local summary criminal history information for employment, licensing or certification purposes; and

WHEREAS, Penal Code Sections 11105(b)(11) and 13300(b)(11) require that there be a requirement or exclusion from employment, licensing, or certification based on specific criminal conduct on the part of the subject of the record; and

WHEREAS, Penal Code Sections 11105(b)(11) and 13300(b)(11) require the city council, board of supervisors, governing body of a city, county or district or joint powers authority to specifically authorize access to summary criminal history information for employment, licensing, or certification purposes; now, therefore, be it

RESOLVED, That the Transbay Joint Powers Authority is hereby authorized to access state summary criminal history information for employment (including volunteers and contract employees), licensing, or certification purposes, and may not disseminate the information to a private entity.

I hereby certify that the foregoing resolution was adopted by the Transbay Joint Powers Authority Board of Directors at its meeting of September 9, 2021.

Interim Secretary, Transbay Joint Powers Authority