

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

12/19/2024  
Item No.: 6.1  
ERR/pcm



**RESOLUTION APPROVING AND AUTHORIZING THE  
EXECUTIVE DIRECTOR TO AWARD AND EXECUTE A  
CONTRACT WITH OLIVER DE SILVA INC. DBA  
GALLAGHER & BURK INC. IN AN AMOUNT NOT TO  
EXCEED \$9,876,876.00 FOR THE EVERPORT  
TERMINAL SERVICES PAVEMENT PROJECT AND  
EXECUTE CHANGE ORDERS IN AN AMOUNT NOT TO  
EXCEED \$1,975,375.00; AND FINDING THAT THE  
PROPOSED ACTION IS EXEMPT UNDER THE  
CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

**WHEREAS**, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Agenda Item No. 6.1, dated December 19, 2024, and related agenda materials ("Agenda Report"), 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 these matters, 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 testimony received;

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

**Section 1.** Based upon the information contained in the Agenda Report and in testimony received, the Board finds and determines that:

A. The proposed action is categorically exempt from the California Environmental Quality Act ("CEQA") under Section 15302 of the CEQA Guidelines because the proposed structure(s) will have substantially the same purpose and capacity as the existing structure(s) on the property.

B. The proposed action is for the performance of general services by contract that are in the public interest because of economy or better performance and will not result in the loss of employment or salary by any person having permanent status in the competitive service.

**Section 2.** The Board hereby approves the following concerning the Everport Terminal Services Pavement Project ("Project"):

A. Award of a contract ("Contract") for the Project to Oliver de Silva Inc. dba Gallagher & Burk Inc. ("Contractor"), the lowest responsible responsive bidder, in a total amount not to exceed \$9,876,876.00.

B. Authorization of a maximum of \$1,975,375.00 in change order authority to be used only to the extent necessary and subject to the approval of the Executive Director ("Executive Director") of the Port.

**Section 3.** The Board hereby approves and authorizes the Executive Director to:

A. Finally resolve bid protests pursuant to Chapter 5.12 of the Port of Oakland Administrative Code.

B. Execute the Contract with Contractor in a total amount not to exceed \$9,876,876.00.

C. Execute change orders to the Contract, to the extent necessary, in an amount not to exceed \$1,975,375.00.

D. Make any additions, modifications, or corrections necessary to execute the requested actions, subject to the limitations set forth herein, provided that any addition, modification, or correction does not materially differ from the terms and conditions set forth herein and in the Agenda Report, and are approved as to form and legality by the Port Attorney.

**Section 4.** The Board further finds that:

A. The Director of Engineering is authorized to approve the project manual and plans for each instance of work performed under the Contract in advance of construction pursuant to Government Code Section 830.6.

B. A bond for the faithful performance of the work, and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts due under the Unemployment Insurance Code, each in the amount of one hundred percent (100%) of the Contract price shall be provided by Contractor as prescribed by applicable laws and regulations and the Contract specifications.

C. The procedure prescribed by applicable laws, regulations, and the Contract specifications shall be taken for the execution of said contract.

**Section 5.** 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. This resolution approves and authorizes the execution of a contract in accordance with the terms of this resolution. Unless and until a separate written contract 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 the other contracting party, there shall be no valid or effective contract.

**Section 6.** This resolution shall be effective immediately upon adoption by the Board.

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