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**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 20-42

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A FOURTH SUPPLEMENTAL AGREEMENT WITH THE CITY OF OAKLAND, ACTING FOR THE OAKLAND FIRE SERVICES ADMINISTRATION, TO EXTEND THE EXISTING MEMORANDUM OF UNDERSTANDING FOR AIRCRAFT RESCUE AND FIRE FIGHTING ONE YEAR THROUGH FISCAL YEAR 2021 FOR AN AMOUNT NOT TO EXCEED \$6,500,000.

WHEREAS, the City of Oakland, a municipal corporation (the "City") and the City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners (the "Port") have entered into a Memorandum of Understanding Regarding Aircraft Rescue Fire Fighting Services at the Metropolitan Oakland International Airport (as amended, the "MOU"); and

WHEREAS, the MOU will expire on June 30, 2020; and

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item 6.1 dated May 28, 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; now, therefore be it

RESOLVED, 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 be it

FURTHER RESOLVED, that the Board hereby authorizes the Executive Director to execute a Fourth Supplemental Agreement with the City, acting for the Oakland Fire Services Administration, to extend the MOU for one year to June 30, 2021 for an amount not to exceed \$6,500,000, subject to approval by the Port Attorney as to form and legality; and be it

FURTHER RESOLVED, that the Board determines and finds that this project is categorically exempt from California Environmental Quality Act ("CEQA") pursuant to Section 15301 (Existing Facilities), which exempts the operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination; and be it

FURTHER RESOLVED, that this resolution is not evidence of and does not create or constitute (a) a contract(s), 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 Board. 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 other contracting party, there shall be no valid or effective contract.

At the regular meeting held on May 28, 2020

Passed by the following vote:

Ayes: Commissioners Cluver, Colbruno, Lee, Leslie, Martinez, Story and President Butner – 7

Noes: – 0

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

05/28/2020
Item No.: 6.3
MCR/msr



RESOLUTION NO. 20-43

RESOLUTION: (1) AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A FEASIBILITY COST SHARING AGREEMENT WITH THE UNITED STATES ARMY CORPS OF ENGINEERS; AND (2) APPROVING A BUDGET OF \$1,500,000 FOR THE OAKLAND HARBOR TURNING BASINS WIDENING FEASIBILITY STUDY.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item 6.3 dated May 28, 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;

WHEREAS, the Port has been working closely with the United States Army Corps of Engineers ("USACE") on a feasibility study to identify the constraints of the Oakland Inner Harbor and Outer Harbor turning basins and to evaluate potential navigational improvements for handling ultra-large container vessels ("ULCV") at the Port ("Feasibility Study");

WHEREAS, in February of 2020, the USACE released its fiscal year 2020 work plan which authorized an USACE-led Feasibility Study and full federal funding of \$1.5 million;

WHEREAS, Port staff and the USACE have negotiated the terms of the Feasibility Cost Sharing Agreement ("Agreement") to describe the Port's and USACE's obligations with respect to the Feasibility Study, including a Port commitment of \$1.5 million for the Port share of Feasibility Study costs; 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;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. Based upon the information contained in the Agenda Report, and testimony received, the Board approves and authorizes the Port's Executive Director to execute the Agreement with the USACE as described herein and in the Agenda Report.

SECTION 2. The action to initiate a Feasibility Study to review navigational constraints and evaluate opportunities for turning basin improvements to remove limitations and inefficiencies with handling ULCV in Oakland was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA"). Per Section 15061(b)(3) of the CEQA Guidelines, this action is covered by the common-sense exemption that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that this Feasibility Study may have a significant effect on the environment and this action is not subject to CEQA. The Feasibility Study will include CEQA review of the preferred project identified as part of the Feasibility Study.

SECTION 3. The Board approves and authorizes a budget of \$1,500,000 pursuant to the Agreement to support the Feasibility Study, and as further described herein and in the Agenda Report.

SECTION 4. 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 Board. This resolution approves and authorizes the execution of an agreement(s) in accordance with the terms of this resolution. Unless and until a separate written agreement(s) is duly executed on behalf of the Board as authorized by this resolution, is signed and approved as to form and legality by the Port Attorney, and is delivered to the contracting party, there shall be no valid or effective agreement(s).

At the regular meeting held on May 28, 2020

Passed by the following vote:

Ayes: Commissioners Cluver, Colbruno, Lee, Leslie, Martinez, Story and President Butner – 7

Noes: – 0



**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 20-44

RESOLUTION: (1) AUTHORIZING PROJECT BUDGET OF \$2,195,560; (2) AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO A CONTRACT WITH OLIVER DE SILVA INC. DBA GALLAGHER & BURK, INC., IN AN AMOUNT NOT TO EXCEED \$1,667,875; AND (3) AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE CONTRACT CHANGE ORDERS TO THE EXTENT NECESSARY IN THE AMOUNT NOT TO EXCEED \$333,575, ALL CONCERNING THE BEN E. NUTTER TERMINAL PAVEMENT MAINTENANCE PROJECT.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item No. 6.4 dated May 28, 2020, 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 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;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

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

A. It is in the best interest of the Port to authorize the **Ben E. Nutter Terminal Pavement Maintenance Project ("Nutter Pavement Project")**.

B. It is in the best interest of the Port to authorize and approve project budget in the amount of \$2,195,560 for the **Nutter Pavement Project**.

C. The development and use provided for in the project manual and the subsequent use of the development approved by this resolution are in conformity with the General Plan of the City of Oakland.

D. Pursuant to the Port Purchasing Ordinance, it is in the best interest of the Port to delegate to the Executive Director of the Port ("Executive Director") the authority to finally resolve all bid protests in connection with the **Nutter Pavement Project**.

SECTION 2. The Board hereby approves the following concerning the **Nutter Pavement Project**:

A. Authorize project budget of \$2,195,560.

B. Delegation of authority to the Director of Engineering to approve the Plans and Project Manual.

C. Award of a contract for construction to Oliver De Silva, Inc. dba Gallagher & Burk, Inc. ("Gallagher"), the lowest responsible bidder, in a total amount not to exceed \$1,667,875.

D. Rejection of all other bids received and direction that securities accompanying said bids shall be returned to the respective bidders.

SECTION 3. The Board hereby authorizes the Executive Director to do the following concerning the **Nutter Pavement Project**:

A. Finally resolve bid protests pursuant to the Port Purchasing Ordinance.

B. Enter into a contract for construction to Gallagher, the lowest responsible responsive bidder, in a total amount not to exceed \$1,667,875.

C. Execute contract change orders to the extent necessary in an amount not to exceed \$333,575.

SECTION 4. The Board further finds that:

A. The Director of Engineering is authorized to approve the project manual and plans for the **Nutter Pavement Project** 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 the contractor as prescribed by applicable laws and regulations and the contract specifications.

SECTION 5. The proposed project is categorically exempt from the California Environmental Quality Act ("CEQA") Guidelines pursuant to Section 15301, Existing Facilities. CEQA does not apply to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities,

mechanical equipment or topographic features, involving negligible or no expansion of existing or former use.

SECTION 6. 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 Board. 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.

At the regular meeting held on May 28, 2020

Passed by the following vote:

Ayes: Commissioners Cluver, Colbruno, Lee, Leslie, Martinez, Story and President Butner – 7

Noes: – 0