

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

1/26/2023
Item No.: 6.4
CLF/pcm

HEP

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO (1) ENTER INTO A CONTRACT WITH MARINSHIP DEVELOPMENT INTEREST, LLC IN AN AMOUNT NOT-TO-EXCEED \$2,215,625 FOR THE MIDDLE HARBOR SANITARY SEWER LIFT STATIONS D06P AND D10P REHABILITATION PROJECT AND (2) EXECUTE CONTRACT CHANGE ORDERS TO THE EXTENT NECESSARY IN AN AMOUNT NOT-TO-EXCEED \$440,000, FOR A MAXIMUM TWO-YEAR TERM 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 Item No. 6.4, dated January 26, 2023 ("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;

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 the proposed action to approve a contract for the Middle Harbor Sanitary Sewer Lift Stations D06P and D10P Rehabilitation Project was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA") and CEQA Guidelines. The Project is exempt under Section 15302(c) of CEQA because it consists of replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity. No further environmental review is required.

Section 2. The Board hereby approves the following:

A. Award of a contract for the Middle Harbor Sanitary Sewer Lift Stations D06P and D10P Rehabilitation Project ("Rehabilitation Contract") to Marinship Development Interest, LLC ("Marinship") for a maximum two-year term and a total not to exceed amount of \$2,215,625.

B. 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 of the Port ("Executive Director") to do the following:

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

B. Enter into one (1) Contract with Marinship, in a total amount not to exceed \$2,215,625 and for a two-year maximum term; and (2) execute change orders to the extent necessary in a total amount not to exceed \$440,000.

Section 4. The Board further finds that:

A. The Chief Operating Officer or Principal Engineer of the Port 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, in the amount of one hundred percent (100%) of the contract price shall be provided by Marinship 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. 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 the other contracting party, there shall be no valid or effective agreement.

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