

BOARD OF PORT COMMISSIONERS CITY OF OAKLAND

RESOLUTION DELGATING AUTHORITY TO THE DIRECTOR OF ENGINEERING TO APPROVE THE PROJECT MANUAL AND PLANS FOR THE HOWARD TERMINAL PAVEMENT REPAIR FY18 PROJECT AND AUTHORIZING THE EXECUTIVE DIRECTOR TO AWARD A CONTRACT TO OLIVER DESILVA, INC. DBA GALLAGHER & BURK, INC. IN THE TOTAL AMOUNT OF \$557,965.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item 6.5 dated April 12, 2018 ("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 that:

A. It is in the best interest of the Port to authorize the **Howard Terminal Pavement Repair FY18 Project ("Howard Pavement Project")**.

B. 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.

C. Pursuant to the Port Purchasing Ordinance, it is in the best interest of the Port to delegate to the Executive Director the authority to finally resolve all bid protests in connection with this project.

SECTION 2. The Board hereby approves the following:

A. Delegation of authority to the Director of Engineering to approve the Plans and Project Manual for the **Howard Pavement Project**.

B. Award of a contract for construction of the **Howard Pavement Project** to Oliver DeSilva, Inc. dba Gallagher & Burk, Inc., the lowest responsible responsive bidder, in a total aggregate amount not to exceed \$557,965.

C. Rejection of all other bids received for the **Howard Pavement Project** and direction that securities accompanying said bids shall be returned to the respective bidders.

SECTION 3. The Board hereby authorizes the Executive Director to:

A. Finally resolve bid protests in connection with this project pursuant to the Port Purchasing Ordinance.

B. Award of a contract for construction of the **Howard Pavement Project** to Oliver DeSilva, Inc. dba Gallagher & Burk, Inc., the lowest responsible responsive bidder, in a total aggregate amount not to exceed \$557,965.

SECTION 4. The Board further finds that:

A. The Director of Engineering or his designee is authorized to approve the project manual and plans for the **Howard 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.

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

SECTION 5. The Board hereby finds and determines that:

A. The proposed actions to approve the plans and project manual and award the construction contract was reviewed in accordance with the California Environmental Quality Act ("CEQA") and CEQA Guidelines.

B. The general rule in Section 15061(b)(3) of the CEQA Guidelines states that CEQA applies only to activities that have a potential for causing a significant effect on the environment. Port staff conducted an environmental analysis on the road maintenance work described above. It can be seen with certainty that there is no

possibility that the activity in question may have a significant effect on the environment; therefore, the activity is not subject to CEQA.

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. 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 other contracting party, there shall be no valid or effective agreement(s).

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