

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION AUTHORIZING AND APPROVING AN INCREASE OF \$35,000 TO THE MAXIMUM NOT TO EXCEED CONTRACT AUTHORITY LIMIT FOR THE CONTRACT WITH OLIVER DESILVA INC., DOING BUSINESS AS GALLAGHER & BURK, INC. FOR THE HOWARD TERMINAL PAVEMENT REPAIR PROJECT.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item 2.4 dated September 13, 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, on April 12, 2018, by Resolution No. 18-28, the Board authorized the Executive Director to enter into a contract for the **Howard Terminal Pavement Repair Project** with **Oliver DeSilva, Inc., doing business as Gallagher & Burk, Inc., ("Gallagher & Burk")**, in the amount of \$557,965; 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 an increase to the maximum not to exceed contract authority limit for the **Howard Terminal Pavement Repair Project** of \$35,000 for a total maximum contract authority limit not to exceed \$592,965;

B. It is in the best interest of the Port to authorize the Executive Director to negotiate and execute additive change orders with **Gallagher & Burk**, under the contract for the **Howard Terminal Pavement Repair Project** in a total amount not to exceed \$35,000.

C. The proposed contract authorization was reviewed in accordance with the requirements of the California Environmental Quality

Act ("CEQA"), and the Port CEQA Guidelines, specifically Section 15061(b)(3). Since it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 2. The Board hereby approves an increase to the maximum not to exceed contract authority limit of \$35,000 for a total maximum contract authority not to exceed \$592,965 with **Gallagher and Burk** for the **Howard Terminal Pavement Repair Project**.

SECTION 3. The Board hereby authorizes the Executive Director to negotiate and execute additive change orders with **Gallagher & Burk** for the **Howard Terminal Pavement Repair Project**, in a total aggregate amount not to exceed \$35,000.

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 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).