



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**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 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.

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