

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

12/17/2020
Item No. 2.4
MCR/msr

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO: (1) ENTER INTO A CONTRACT WITH MCGUIRE AND HESTER IN AN AMOUNT NOT TO EXCEED \$1,063,540; AND (2) EXECUTE CONTRACT CHANGE ORDERS TO THE EXTENT NECESSARY IN AN AMOUNT NOT TO EXCEED \$160,000 CONCERNING THE BERTHS 57, 58, 59 SANITARY SEWER LIFT STATION REHABILITATION PROJECT.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item No. 2.4 dated December 17, 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; 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. The proposed actions were reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA") and CEQA Guidelines. The proposed project is categorically exempt from the California Environmental Quality Act ("CEQA") Guidelines 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 topographic features, involving negligible or no expansion of existing or former use.

B. It is in the best interest of the Port to authorize the **Berth 57, 58, 59 Sanitary Sewer Lift Station Rehabilitation Project ("Berths 57-59 Sewer 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 the authority to finally resolve all bid protests in connection with the Berths 57-59 Sewer Project.

Section 2. The Board hereby approves the following concerning the **Berths 57-59 Sewer Project**:

A. Award of a contract for construction to McGuire and Hester, the lowest responsible responsive bidder, in a total amount not to exceed \$1,063,540.

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 to do the following concerning the **Berths 57-59 Sewer Project**:

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

B. Enter into a contract for construction with McGuire and Hester, the lowest responsible responsive bidder, in a total amount not to exceed \$1,063,540.

C. Execute contract change orders to the extent necessary in an amount not to exceed \$160,000.

Section 4. The Board further finds that:

A. The Chief Engineer is authorized to approve the project manual and plans for the **Berths 57-59 Sewer 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. 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 other contracting party, there shall be no valid or effective agreement.

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

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