

AGENDA REPORT

Resolution: Authorization to Enter into Contracts with A-1 Modular, Fisher Development, SilMan Venture Corporation dba SilMan Industries, and Angotti & Reilly for On-Call General Building Contractor Services in an Aggregate Amount Not-to-Exceed \$5,000,000 and with Redgwick Construction, A. Teichert & Son dba Teichert Construction, Gallagher & Burk, McGuire and Hester, and O.C. Jones & Sons for On-Call Paving and Grading and Associated General Building Contractor Services in an Aggregate Amount Not-to-Exceed \$12,000,000 for the Period Commencing November 1, 2021 and Ending October 31, 2022, 2023, or 2024. **(Operations Office)**

MEETING DATE: 10/14/2021

AMOUNT: \$17,000,000 (Total Contract Amount)
Choose an item.

PARTIES INVOLVED: A-1 Modular, Inc.
San Leandro, CA (Jose Ramirez, President/CEO)
Fisher Development, Inc.
San Francisco, CA (Sydney Fisher Bernier, VP)
SilMan Venture Corporation, dba SilMan Industries
San Leandro, CA (Thomas Mangin , President)
Angotti & Reilly, Inc.
San Francisco, CA (James P. Reilly, President)
Redgwick Construction Co.
Oakland, CA (Robert Rahebi, President)
A.Teichert & Son, Inc. dba Teichert Construction
Pleasanton, CA (David A. Swartz, Executive VP)
Gallagher & Burk, Inc.
Oakland, CA (David DeSilva, President)
McGuire and Hester
Oakland, CA (Michael R. Hester, President)
O.C. Jones & Sons, Inc
Oakland, CA (Rob Layne, President/CEO)

SUBMITTED BY: Kristi McKenney, Chief Operating Officer

APPROVED BY: Danny Wan, Executive Director

ACTION TYPE: Resolution

EXECUTIVE SUMMARY On-Call Contracts are an essential tool for performing certain Port of Oakland (Port) work. Staff has made several enhancements to the on-call program over the past year and recently solicited new bids for two on-call construction contract categories. Staff seeking authorization to award contracts from these bids.

BACKGROUND

Public procurement on-call contracts in various technical areas for both consulting and construction services are essential tools in delivering of the Port's annually budgeted projects and programs both expense and capital and are used by multiple departments across the Port. Each project/scope of work is separately authorized by a formal Work Authorization (Construction) or Technical Service Order (Consulting) in accordance with all Port policies and best practices. The on-call contract approach essentially conducts the formal procurement process in advance allowing efficiencies and time savings when projects or programs are ripe to initiate allowing more work to be performed in any given year than would otherwise be possible. This tool is especially effective for 1) smaller projects and programs where the administrative processes can cost as much and take as much time as the project itself, 2) emergencies, urgent, or time sensitive situations where the Port is greatly benefited by moving faster than a separate processes allow, 3) where certain known expertise is required timely but specific work scopes are only defined close to when they are needed (e.g. crane maintenance or dredging services). On-call may also be the right tool for other work as well based on the specific set of circumstances.

Over the past year Port staff has been revamping the on-call contracting program to be more effective for the Port and contractors and will continue to evolve the program as appropriate. Initiatives include:

- Increasing the number of formal solicitations and staggering contract terms offering contractors more opportunities to respond and ensuring all contracts in one category do not expire simultaneously
- Significantly increasing the outreach program to local firms
- Using the on-call program to test various approaches to increase local and small business participation in Port contracts
- Increasing the use of on-call contracts for various types of work so contractors gain more value by participating (it can be difficult to keep contractors available for emergencies if more work is not available to them during the term)

Two current on-call construction contracts, 1) General Building Contractor Services and 2) Paving and Grading and Associated General Building Contractor, will be expiring December 31, 2021. Staff initiated a formal procurement process this year for new contracts in both technical areas. On-Call General Building Services contractors furnish general construction services for repairing, maintaining, and remodeling Port buildings, constructing building-related improvements, and constructing small auxiliary buildings at various Port facilities. On-Call Paving and Grading contractors furnish on-call grading, constructing, rehabilitating and repairing of pavements and other Port infrastructure; and performing miscellaneous general contract work at various Port facilities. The Port may also request these contractors to provide related design or consulting services. The selected Contractors will perform work when ordered through Port Work Authorization.

building-related services will expire on December 31, 2021, with no provisions for renewal. The budget authorization of \$3,000,000 for the existing contract has been fully committed to on-going and projected Instances of Work.

ANALYSIS

Staff used the public works bid process to solicit bids on August 20, 2021 for the above work. Staff posted the solicitation on the Port's website at the following link: <http://www.portofoakland.com/business/bids-RFQs/rfq-engineering/>.

In order to encourage participation by small local contractors, Engineering, Legal and SRD Staff developed a set aside program for up to two contracts to be awarded to Port-certified SBE contractors separate from the general awards. In addition, bidders were advised that measures would be taken to ensure that the construction and labor and materials bonds for SBE contractors would only be half of the typical amount required and would not exceed \$1,000,000 regardless of Work Authorization value.

In order to further encourage Port-certified SBE contractors to submit bids for this work, the Social Responsibility Division worked closely with Engineering to ensure outreach and compliance with the Non-Discrimination and Small Local Business Utilization Policy. For this bid solicitation, the Port conducted outreach prior to the pre-bid meeting in the following ways:

- contacting firms in the Port's certified database (representing local/small businesses) that perform work included within the scope of this contract;
- sending e-mail blasts to trade associations, industry groups, chambers, and workforce community based organizations: (e.g., West Oakland Job Resource Center, Alameda County Building & Construction Trades, Women in Trades Council, Oakland Black Board of Trade & Commerce, Oakland Chinatown Chamber, Unity Council, Cypress Mandela Training Center, etc.), and sharing e-mail blasts with sister agencies (i.e., City of Oakland, County of Alameda, Caltrans, Alameda County Transportation Authority, et al), and construction clearinghouses;
- posting a Port website announcement of the contract opportunity; and
- sharing information, explaining requirements, goals, resources (e.g., certification and technical assistance), and expectations as part of the pre-bid meeting, and providing an information packet to potential bidders.
- In addition to the above outreach measures, for the purposes of these contracts the Social Responsibility Division requested that Turner Construction and Merriweather and Williams send email blasts to their respective networks and training program participants.

As a result, approximately 1,800 firms were contacted.

On September 20, 2021, four formal bids were received by the Secretary of the Board of Port Commissioners for the General Building Contractor Services as shown in the table below:

Bidder	Location	Small/Local Status *	Bid Amount **
A-1 Modular, Inc.	San Leandro, CA		10%
Fisher Development, Inc.	San Francisco, CA		30%
SilMan Venture Corporation dba SilMan Industries	San Leandro, CA	LIA	31%
Angotti & Reilly, Inc.	San Francisco, CA		51%

* LBA = Local Business Area; LIA = Local Impact Area.

** Markup to Direct Labor Costs (non-MAPLA Instances of Work)

On September 21, 2021, six formal bids were received by the Secretary of the Board of Port Commissioners for the Paving and Grading and Associated Services as shown in the table below:

Bidder	Location	Small/Local Status *	Bid Amount **
Gallagher & Burk, Inc.	Oakland, CA	LIA	10%
McGuire and Hester	Oakland, CA	LIA	10.7%
Redgwick Construction Co.	Oakland, CA	SBE/LIA	11%
A. Teichert & Son, Inc. dba Teichert Construction	Pleasanton, CA	LBA	11.1%
O.C. Jones & Sons, Inc.	Oakland, CA	LIA	12.2%
Ghilotti Bros., Inc.	San Rafael, CA		35%

* LBA = Local Business Area; LIA = Local Impact Area; SBE = Small Business Enterprise

** Markup to Direct Labor Costs (non-MAPLA Instances of Work)

Port staff evaluated the bids based on criteria set forth in the solicitation and determined that all bids are responsive and responsible. Note that the Bid Amount essentially serves as a cap that each selected contractor cannot exceed in their markup to direct costs. When actual work is required, contractors will be asked to provide bids on specific scopes of work and may provide pricing well below these maximum markups to make themselves more competitive for particular projects. The Port's Social Responsibility Division (SRD) performed its analysis of the Small/Local business status of the bidders, as indicated above. Note that A-1 Modular, has not applied for Port certification yet, therefore no determination as to its Small/Local Status has been made by SRD at this time.

In spite of changes to the procurement requirements and a special set aside to increase attractiveness to small local firms only one certified SBE firm bid on the Paving and Grading contract and none on the Building Services contract.

Having a pool on on-call contractors in each technical area ensures sufficient resources are available when needed because contractors can be busy at periods when the Port may need

certain work performed and may not be willing to execute a particular Work Authorization. It also encourages fair and reasonable pricing when multiple there are multiple firms available. Given this importance, Port staff believes that it is in the best interests of the Port to execute contracts with the four bidders for the On-call General Building Contractor Services and the SBE contractor and the four lowest non-SBE contractors for the On-Call Paving and Grading and Associated Service Contract.

Staff, therefore, seeks authorization to award these contracts

BUDGET & STAFFING

All work performed under this on-call contract is included in the current fiscal year approved operating and capital budget or will be included in subsequent year budgets for Board approval. There is no staffing impact associated with this action.

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The provisions of MAPLA will apply to Maritime and Aviation Capital Improvement Work performed under this contract for any Instance of Work exceeding \$150,000, unless said Instance of Work is performed by a Certified Small Business Enterprise that is eligible for and requests in writing to be excluded from the operational requirements of the MAPLA, provided that, prior to the solicitation of bids for said Instance of Work, the Port has exercised the discretion granted by in the MAPLA, Article 9, MAPLA Small Business Enterprise Program, to exclude the Instance of Work from MAPLA coverage, and provided that all of the conditions for MAPLA exclusion specified in Article 9 have been met.

STRATEGIC PLAN

The action described herein would help the Port achieve the following goals and objectives in the Port's Strategic Business Plan (2018-2022).

<https://www.portofoakland.com/wp-content/uploads/Port-of-Oakland-Strategic-Plan.pdf>

- Goal: Improve Customer Service
- Goal: Modernize and Maintain Infrastructure
- Goal: Strengthen Safety and Security
- Goal: Serve Our Community
- Goal: Care for Our Environment

LIVING WAGE

Living wage requirements, in accordance with the Port's Rules and Regulations for the Implementation and Enforcement of the Port of Oakland Living Wage Requirements (the "Living Wage Regulations"), do not apply because the contract is a construction contract covered by

state prevailing wage rules and the prevailing rate of wage is higher than the wage required by the Living Wage Regulations.

SUSTAINABILITY

Port staff has reviewed the Port's 2000 Sustainability Policy. There are no sustainability opportunities related to this proposed action because it does not involve a development project, purchasing of equipment, or operations that presents sustainability opportunities. Opportunities to advance the principles of sustainability and incorporate sustainable design and construction practices will be investigated and implemented on a project-specific basis.

ENVIRONMENTAL

This action, to approve a contract for on-call sanitary sewer rehabilitation for the Port of Oakland, was reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA) Guidelines. 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. It can be seen with certainty that there is no possibility that authorizing this on-call contract will result in a physical change in the environment, and therefore this action is not subject to CEQA and no further environmental review is required. Projects identified for future implementation would be subject to environmental review when proposed for implementation.

GENERAL PLAN

The public works contracts involve maintenance of existing facilities that conform to the provisions of the Oakland General Plan, and new construction that will conform to the transportation designation of the Oakland General Plan in accordance with Section 727 of the Charter.

OWNER-CONTROLLED INSURANCE PROGRAM (OCIP)

Much of the work of this contract is not associated with capital improvement construction projects, or the activities are excluded from the Port of Oakland Owner Controlled Insurance Program (OCIP). The contract therefore does not fall within the scope of OCIP and the OCIP provisions will not apply. The contractors will be required to provide insurance in accordance with the contract documents. Should an instance of work under any of these contracts fall within the OCIP scope and funding, project contracts for such work will contain OCIP provisions and OCIP coverage shall apply. OCIP provisions and OCIP coverage would apply to construction activities if such instances are included as part of a Capital Improvement Plan construction project and are not otherwise excluded.

OPTIONS

- Approve the recommendation as described in this Agenda Report.
- Approve some but not all of the on-call contracts recommended in this Agenda Report. This would achieve some but not all of the benefits of the on-call program.

- Do not award any of the on-call contracts. This would have a significantly negative impact on the Port's ability to deliver certain types of work and to respond to emergencies or urgent needs.

RECOMMENDATION

- Adopt a resolution authorizing the Executive Director to award contracts 1) with A-1 Modular, Fisher Development, SilMan Venture Corporation dba SilMan Industries, and Angotti & Reilly for **Furnishing Labor, Materials, and Equipment for General Building Contractor Services for Port of Oakland Facilities for the Period Commencing November 1, 2021 and Ending October 31, 2022, 2023 or 2024, Oakland, California**, for a maximum period of three (3) years, renewable in one-year increments, in a total combined amount not to exceed \$5,000,000.00 for the three (3) year term of the contracts and 2) authorizing the Executive Director to award contracts with Gallagher & Burk, McGuire and Hester, Redgwick Construction, A. Teichert & Son dba Teichert Construction, and O.C. Jones & Sons for **Furnishing Labor, Materials, and Equipment for Paving, Grading and Associated General Building Contractor Services for Port of Oakland Facilities for the Period Commencing November 1, 2021 and Ending October 31, 2022, 2023 or 2024, Oakland, California**, for a maximum period of three (3) years, renewable in one-year increments, in a total combined amount not to exceed \$12,000,000.00 for the three (3) year term of the contracts.