



Executive Director's

Report to the

Board of Harbor Commissioners

**DATE: NOVEMBER 13, 2019**

**FROM: CONSTRUCTION**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ -  
AWARD AND APPROVAL OF CONSTRUCTION CONTRACT  
CONTRACTOR: GRIFFITH COMPANY  
SAN PEDRO WATERFRONT  
BERTHS 74-84 PROMENADE AND TOWN SQUARE  
SPECIFICATION NO. 2807**

**SUMMARY:**

Staff requests that the Board of Harbor Commissioners approve the award of a contract (Contract) to Griffith Company, to construct the San Pedro Waterfront Berths 74-84 Promenade and Town Square (Project) as part of the overall San Pedro Public Market Development. The Project consists of a 1.9 acre, 30-foot wide public promenade, 4-acre town square, and restroom building. The lowest responsive and responsible bidder is Griffith Company, located at 12200 Bloomfield Ave., Santa Fe Springs, California. The Contract amount of \$33,059,812.50, plus a 10% contingency, is \$36,365,793.75, and the Contract duration is 540 calendar days. Payment of expenses incurred under the Contract is the financial responsibility of the Harbor Department.

**RECOMMENDATION:**

It is recommended that the Board of Harbor Commissioners (Board):

1. Find that the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(i) of the Los Angeles City CEQA Guidelines;
2. Find that, in accordance with the Los Angeles City Charter Section 1022, work under the subject Contract can be performed more feasibly by an independent contractor rather than by City employees;
3. Find that the bid proposal from the apparent low bidder, National Demolition Contractors, Inc. (National), did not include a unit price or total amount for Contingency Bid Item Nos. 78 through 85 in Section 00030-11, pages 72 through 74 of the Specification No. 2807, and therefore is deemed non-responsive;

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4. Award and approve, Specification No. 2807 for Item Nos. 1 through 96 of the proposal schedule to Griffith Company for the amount of \$33,059,812.50; that a 10% contingency not included in the original Contract amount be applied for a total authorization of \$36,365,793.75; and authorize payment from the Harbor Department Construction Account. The Contract time for performance of the work shall be 540 calendar days from the Notice to Proceed;
5. Authorize the Executive Director to execute and the Board Secretary to attest to this Contract for and on behalf of the Board;
6. In accordance with City Charter Section 655 (g), delegate and authorize the Executive Director to adjust the final bid quantities and accept the construction Contract upon its completion; and
7. Adopt Resolution No. \_\_\_\_\_.

**DISCUSSION:**

Project Objectives - The Project will provide a new continuous pedestrian waterfront promenade along the main channel from Berths 74 to 84 as part of the San Pedro Public Market and Town Square at the foot of 6th Street, south of the recently completed Downtown Harbor. The Project will also include a new restroom building located north of the Town Square parking lot and roundabout. The Project was described in the Approval of a Permit between the City of Los Angeles Harbor Department and San Pedro Public Market, LLC for the Commercial Redevelopment of the Ports O'Call Site, under Resolution No. 16-7946.

Project Description - This Project consists of construction of a 1.9 acre, 30-foot wide public promenade, 4-acre town square, and restroom building. Work includes landscaping, hardscaping, signage, trash cans, architectural finishes, handrails, lighting, public seating, and construction of restroom building. Scope includes items such as demolition, new floating dock and gangway, installation of new piles, structural improvements, hardscaping, landscaping, utilities, grading, roadway intersection, overlooks, balconies, and other site improvements (Transmittal 3).

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Construction Award Process - City of Los Angeles Charter Section 371 (a) - Competitive Bidding sets forth the procedure staff followed to award the Contract. For construction contracts such as this one, the Harbor Department publishes the Notice Inviting Bids in daily newspapers and trade publications circulated in the City of Los Angeles, as well as on the Port of Los Angeles website. The Harbor Department also conducts a pre-bid conference to answer questions related to the construction contract.

Following the submittal to the Harbor Department, the bids are publicly opened and the apparent lowest bidder is declared. Bid documents, Small Business Enterprise (SBE) and Very Small Business Enterprise (VSBE) participation, and other required documents are reviewed for compliance with Harbor Department requirements. Once all information is verified, and if the lowest bidder is deemed responsive, recommendation for award of the construction contract is made. If the apparent low bidder is found non-responsive, the next lowest bidder is reviewed.

In conformance with the City Charter section for competitive bidding, as stated above, the Notice of Inviting Bids for Specification No. 2807 (Specification) was advertised on the Port of Los Angeles website, Dodge Construction, Rafu Shimpo, Chinese Daily News, and the Metropolitan News Company to reach out to as many potential bidders as possible. A pre-bid meeting was held on September 17, 2019.

Opening of bids and National's non-responsive bid

As authorized by the Executive Director on September 9, 2019, the Chief Harbor Engineer received six bids for the subject Contract on October 3, 2019. The Analysis of Bids lists the companies that submitted bids and their respective bid amounts (Transmittal 1). The bids were received and opened; National was declared the apparent lowest bidder at the time of the bid opening with a bid of \$31,672,758.40, subject to evaluation and verification of bid documents.

During the bid opening, staff found National's bid documents did not include a unit price or total amount for Contingency Bid Item Nos. 78 through 85 in Section 00030.11, pages 72 through 74. In addition to the omission of the contingency bid items, staff also found National's grand total sum was incorrect. When staff totaled the sum of all the items (excluding those left blank by National) during the bid analysis, the correct grand total sum was \$32,316,958.40 not \$31,672,758.40. National notified the Harbor Department in a letter dated October 23, 2019 (Transmittal 4) that their bid should be considered responsive. A response to the letter from National was issued on October 30, 2019 (Transmittal 5).

On October 29, 2019 Griffith Company submitted a letter (Transmittal 6) raising concerns regarding the "responsiveness" of National's bid. Griffith requested the Harbor Department award the Contract to Griffith as the lowest responsive and responsible bidder.

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Staff, in consultation with the City Attorney, has reviewed National's bid and has concluded that National's bid is non-responsive for the following reasons:

1. The Specification requires both unit and total price for all bid items, including contingency items, be filled out, as stated in the following sections:
  - Information for Bidders, Section 00022.02 – Form of Proposal, page 1, states “All blank spaces in the Proposal Schedule (unit process and totals or extensions) shall be filled in numbers and shall be legible.”
  - The Bidders Checklist in Information for Bidders Section 00022.22, page 9, includes, “Has Bidder filled in a price for each bid item?” and “Has Bidder filled in a total for each bid item?”
  - Specification Section 00030.11 – Proposal, page 44, which is signed by the bidder and submitted in the bid package, states “The undersigned has carefully checked all figures inserted in the Proposal Schedule and understands that the Board will not be responsible for any errors or omissions on the part of the undersigned in making the bid.”
  - Specification Section 00030.12 – Proposal Schedule, page 47, states, “Bidders must fill in blank spaces and give the price bid in numbers.”
  - Specification Section 00030.12 – Proposal Schedule, page 78, indicates “The lowest bidder will be based on the sum of all the items for which a bid is requested, including all contingency items regardless of whether all of those items are actually awarded.”

National's failure to list an amount for a bid item makes the bid non-responsive to the Harbor Department's request for a bid amount.

2. National's failure to provide a price for a bid item directly affects the amount of the bid and provides the advantage of potentially deciding, after opening of bids, whether to move forward with the contract without forfeiting its bid bond. Therefore, this deficiency cannot be waived.

Based on the above, staff has found that Griffith Company is the lowest responsive responsible bidder at \$33,059,812.50. Staff recommends addition of a 10% contingency based on a qualitative review of project specific risks, including schedule constraints and potential unforeseen conditions that may arise during construction and scope and design changes to accommodate field conditions, resulting in a total project authorization of \$36,365,793.75.

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The Harbor Department had set a minimum SBE participation level of 16%, of which 5% shall be VSBE participation. Griffith Company has provided the required documents regarding their SBE and VSBE participation and the Construction Manager has calculated their SBE/VSBE participation to be 24.66% and 7.39% respectively (Transmittal 2).

Construction staff has verified Griffith Company's state license. The Contract is consistent with State of California Prevailing Wage provisions. This contract is subject to the Project Labor Agreement Resolution No.17-8164 as approved by the Board on September 7, 2017, and the Los Angeles City Council on December 5, 2017.

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is approval of the award of this construction Contract to Griffith Company, which is an activity for which the underlying project has been previously assessed in the San Pedro Waterfront Project Environmental Impact Report (SCH# 2003104005) certified by the Board on September 29, 2009 and the San Pedro Public Market Addendum considered by the Board on May 19, 2016. Therefore, the Director of Environmental Management has determined that the proposed action is administratively exempt from the requirements of CEQA in accordance with Article II Section 2(i) of the Los Angeles City CEQA Guidelines.

**FINANCIAL IMPACT:**

Funds in the amount of \$9,774,554.00 are budgeted for the current FY 2019-2020 in Account No. 54510 (Capital Construction Services), Center No. 1185, and Program No. 624. Funds are anticipated to be expended as follows:

FY 2019-2020	\$ 9,774,554.00
FY 2020-2021	\$25,691,239.75
<u>FY 2021-2022</u>	<u>\$ 900,000.00</u>
<b>TOTAL</b>	<b>\$36,365,793.75</b>

Funds for the future fiscal year will be requested and budgeted as part of the annual budget process, upon Board Approval.

Although Griffith Company is not obligated to perform any work under the Contract in any fiscal year in which no appropriation for the Contract has been made, the Contractor agrees to resume performance of the work required by the Contract on the same terms and conditions for a period of 60 days after the end of the fiscal year if an appropriation therefore is approved within that 60-day period. The Contractor is responsible for maintaining all insurance and bonds during this 60-day period. The time for performance shall be extended during this period until the appropriation is made; however, such extension of time is not compensable.

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If in any subsequent fiscal year funds are not appropriated for work required by the Contract, the Contract shall be terminated. However, such termination shall not relieve the parties of liability for any obligation previously incurred.

**CITY ATTORNEY:**

The Office of the City Attorney reviewed and approved Specification No. 2807 as to form and legality on September 4, 2019.

**TRANSMITTALS:**

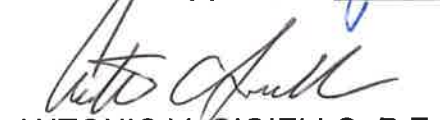
1. Analysis of Bids
2. Contractor and Subcontractor List
3. Aerial Photos
4. National Letter dated October 23, 2019
5. Response Letter to National dated October 30, 2019
6. Griffith Company Letter dated October 29, 2019

FIS Approval: MB

CA Approval: me



SHAUN SHAHRESTANI  
Chief Harbor Engineer  
Director of Construction



ANTONIO V. GIOIELLO, P.E.  
Deputy Executive Director

**APPROVED:**

*Mark Bleavin FOR*

EUGENE D. SEROKA  
Executive Director

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File No. 4.7