



SULLY-MILLER CONTRACTING CO.  
License 747612A

135 S STATE COLLEGE BLVD., SUITE 400 ♦ BREAA, CA 92821 ♦ PHONE 714-578-9600

March 29, 2011

Port of Los Angeles  
425 S. Palos Verdes Street  
San Pedro, Ca 90733-0151

Attn: Ms. Marlys D. White, P.E.  
Project Construction Manager, Contract Division

Re: Bid Proposal for San Pedro Waterfront Enhancement,  
Southern Pacific Slip, Specification No. 2701

Subject: Bid Protest

Gentlemen and Ladies:

Sully-Miller Contracting Company is protesting the apparent low bidder, Pima Corporation DBA Advanced Construction, for non-compliance in accordance with requirements as set forth in the Notice Inviting Bids, Instructions to Bidders, Information for Bidders, Bid Documents, Bid Specifications, and under the California Public Contract Code.

The bid proposal submitted by Pima Corp., is both incomplete and materially different than the written Grand Total of the Sum of Items 1 thru 22, giving Pima Corporation grounds for withdrawing their bid without forfeiting their bid bond per Public Contract Code §5103.

*"In evaluating based on "responsiveness" of Bids or Bid Protests, a public agency has some degree of discretion or leeway to ignore "minor irregularities" in the bid, provided that those irregularities in the bid cannot have affected the price or given that bidder an unfair advantage over other bidders.*

***However, if the 'irregularly' is a material typographical or numerical error by the bidder in filling out the Bid Forms, then the Public Agency has no leeway to ignore that error, as that kind of mistake gives the bidder an unfair advantage as such errors likely would be legally good grounds for withdrawing its bid without forfeiting its Bid Bond per Public Contract Code § 5103.***

*This gives that bidder unfair advantage over other bidders, because it could wait until after the bid opening, see what the others had bid, and then elect to withdraw its bid within five (5) days if it wanted to."-Source: © George W. Wolff & Associates, June 29, 2010.*

TRANSMITTAL No. 5

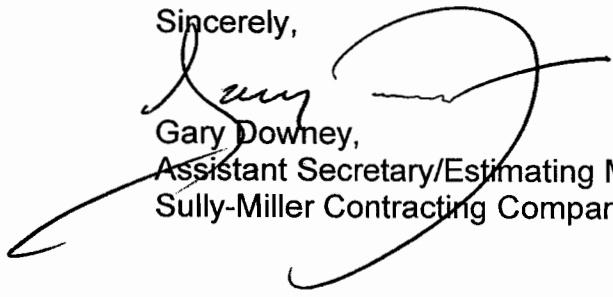
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The bid proposal as submitted by Pima Corp., provided an unfair advantage over other bidders, post bid opening, under Public Contract Code § 5103 "Mistake in Bid", without action against their bid bond if they so choose. The proposal submitted by Pima Corporation DBA Advanced Construction must be deemed non-responsive and select the bid of Sully-Miller Contracting Company as the lowest responsible bidder by the Port of Los Angeles.

This letter is without prejudice to all the rights and remedies which are hereby expressly reserved.

We request the Port of Los Angeles' action or formal response as soon as possible.

Sincerely,



Gary Downey,  
Assistant Secretary/Estimating Manager  
Sully-Miller Contracting Company