



**THE PORT  
OF LOS ANGELES**

Executive Director's  
Report to the  
Board of Harbor Commissioners

**DATE: DECEMBER 12, 2012**

**FROM: CONSTRUCTION**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ - AWARD OF  
CONSTRUCTION CONTRACT  
CONTRACTOR: SULLY-MILLER CONTRACTING CO.  
BERTH 102 REAR BACKLAND DEVELOPMENT  
SPECIFICATION NO. 2736**

**SUMMARY:**

This contract is a part of the phased development of the West Basin China Shipping Container Terminal. Phase I, completed in December 2003, included construction of backland and wharf. Phase IIA, completed in December 2010, included additional backland and wharf. Phase IIIA, currently under construction with an anticipated completion date of December 2013, includes additional backland and wharf. This proposed contract consists of Phases IIB and IIIB, which includes the remaining backland and has a projected completion date of December 2013. Two remaining buildings are scheduled to start construction under another contract in 2014 and will be completed by early 2015. The lowest responsive and responsible bidder is Sully-Miller Contracting Co. (Sully-Miller), Brea, California. The contract amount, plus a 10% contingency is \$23,055,725. The contract duration is 365 calendar days.

**RECOMMENDATION:**

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

1. Find that in accordance with the City Charter Section 1022, work under the subject contract can be performed more feasibly by an independent contractor rather than by City employees;
2. Award the above mentioned contract for Item Nos. 1 through 25 of the proposal schedule to Sully-Miller Contracting Co. in the amount of \$20,959,750; that a 10% contingency, not included in the original contract amount, be applied for a total authorization of \$23,055,725; and authorize payment from the City of Los Angeles Harbor Department Construction Account. The contract time for performance of the work will be 365 calendar days from the Notice to Proceed;

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3. In accordance with City Charter 655 (g), delegate and authorize the Executive Director to adjust final bid quantities and accept the construction contract upon its completion;
4. Authorize the Executive Director to execute, and the Board Secretary to attest to, this contract for and on behalf of the Board; and
5. Adopt Resolution No. \_\_\_\_\_.

**DISCUSSION:**

Background and Context - On December 18, 2008, the Board certified the Berths 97-109 (China Shipping) Container Terminal Project Environmental Impact Statement/Environmental Impact Report (EIS/EIR).

The China Shipping terminal is being developed in multiple phases (see Transmittals 3 and 4 for the overall project limits). Phase I, which included 72.5 acres of backland and 1200 feet of wharf, was completed in December 2003. Phase IIA, which included 19 acres of backland and 1000 feet of wharf, was completed in December 2010.

Phase IIIA, including 375 feet of wharf and 14 acres of backland, is currently under construction with an anticipated completion date of December 2013. This proposed contract includes Phases IIB and IIIB, which includes the remaining 27 acres of backland with a projected completion date of December 2013. Two remaining buildings are scheduled to start construction in 2014 and be completed by early 2015 under another contract.

The scope of the project consists of construction of 27 acres of container backland. The work includes grading, utilities such as storm drain, sewer, gas, water, and lighting, striping, signage, and fencing. It also includes concrete pavement and transtainer runways throughout the terminal, which will accommodate new electric powered transtainer cranes. Please see Transmittal 3 for an aerial site plan showing the limits of the project.

On November 19, 2009, the Board approved a second Level III Coastal Development Permit, authorizing additional scope of work including all remaining areas within the designated China Shipping terminal development limits.

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This project will be constructed in compliance with the City of Los Angeles Harbor Department's (Harbor Department) Small Business/Very Small Business Enterprise Program (SBE/VSBE). This contract is consistent with State of California Prevailing Wage provisions. This project will be performed under a Project Labor Agreement. The duration of this project is 365 calendar days.

This is a very large construction contract requiring specific experience and equipment to perform the work. This contract is also temporary in nature. As such, it is not feasible for the City of Los Angeles (City) to hire employees and purchase equipment to perform the work under this contract.

Construction Award Process – City of Los Angeles Charter Section 371(a) - Competitive Bidding, sets forth the procedure staff followed to award this 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 conducts a pre-bid conference and a job walk to familiarize the prospective bidders with the jobsite and to answer questions related to the construction contract.

Following submittal to the Harbor Department, the bids are publicly opened and the apparent lowest bidder is declared. Bid documents, SBE and 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 lowest bidder is found non-responsive, the next lowest bidder is reviewed.

In conformance with the City section for competitive bidding as stated above, on October 15, 2012, the Notice of Inviting Bids for Specification No. 2736 was advertised on the Port of Los Angeles website, and in the LA Watts Times, Eastside Journal, Chinese Daily News, Dodge Construction "Greet Sheet", and Metropolitan News Company to reach out to as many potential bidders as possible.

As authorized by the Executive Director on September 9, 2012, the Chief Harbor Engineer received six bids for the subject contract on November 20, 2012. The Analysis of Bids (Transmittal 1) lists the companies that submitted bids and their respective bid amounts. The bids received were opened, and Sully-Miller was declared the apparent lowest bidder at the time of the bid opening.

Sully-Miller's bid has been found responsive. A 10% contingency totaling \$2,095,975 is recommended based on a qualitative review of project specific risks, including schedule constraints and potential unforeseen conditions that may arise during construction, utility conflicts, and design and scope changes to accommodate field conditions and/or tenant's needs.

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Construction staff has verified Sully-Miller's state license and project references. In conformance with Section 10.8.4 of Ordinance No. 143429, certification is hereby made that Contractor has executed and filed an Affirmative Action Plan with their bid. A notification letter has been sent to the City Office of Contract Compliance as required in the ordinance.

The Harbor Department had set a minimum participation level of 13% for SBE, and a minimum VSBE participation level of 5% for this project. Sully-Miller has provided the required documents regarding SBE and VSBE participation. Their SBE subcontracting participation level is 16.18%, and their VSBE subcontracting participation level is 8.86% (Transmittal 2).

This contract is consistent with State of California Prevailing Wage provisions. This project is subject to the terms of Project Labor Agreement No. 11-2955 as approved by the Board on March 17, 2011 and the Los Angeles City Council on May 11, 2011.

This contract is also subject to the local business preference ordinance adopted by the Board on April 5, 2012. However, since Sully-Miller is local and qualifies for the preference, the ordinance does not affect the award.

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is an award of contract for construction of the Berth 102 Rear Backland Development project, which was included as part of the China Shipping EIS/EIR. As an activity for which the underlying project has previously been evaluated for environmental significance and processed according to the California Environmental Quality Act (CEQA) guidelines, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of CEQA in accordance with Article II Section 2(i) of the Los Angeles City CEQA Guidelines.

**FINANCIAL IMPACT:**

Approval of the proposed construction contract authorizes a total of \$23,055,725 through Fiscal Year 2013/2014. Funds for these improvements in the amount of \$6,494,468 have been budgeted in the Fiscal Year 2012/2013 Capital Budget, Account No. 54510, Center No. 1042.

Funds are expected to be expended as follows over the next two fiscal years:

Fiscal Year 2012/2013	\$ 6,494,648
<u>Fiscal Year 2013/2014</u>	<u>\$16,561,077</u>
<b>Total</b>	<b>\$23,055,725</b>

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Funds for future fiscal years will be requested to be budgeted as part of the annual budget adoption process, upon Board approval. The overall China Shipping Container Terminal program cost is approximately \$213,000,000, of which approximately \$196,000,00 has been expended and authorized for expenditure to date, inclusive of this project. Approval of this project will not increase the overall cost for the China Shipping Program. It is anticipated that all the China Shipping projects will be completed by early 2015.

Although the contractor 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 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.

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.

The operation and maintenance cost after construction will be borne by the terminal operator.

**ECONOMIC BENEFITS:**

Spending under the proposed contract will support 167 direct and 140 secondary one-year equivalent jobs for the five-county region.

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**CITY ATTORNEY:**

The Office of the City Attorney reviewed and approved Specification No. 2736 as to form and legality on August 6, 2012.

**TRANSMITTALS:**

1. Analysis of Bids
2. Contractor and Subcontractor List
3. Aerial Site Map
4. Project Site Map

FIS Approval: WR (initials)

CA Approval: CRS (initials)

*for* *Robert Zmuda*  
SHAUN SHAHRESTANI  
Chief Harbor Engineer  
Construction Division

*Michael R. Christensen*  
MICHAEL R. CHRISTENSEN  
Deputy Executive Director

**APPROVED:**

*Molly Caydell*  
*for* GERALDINE KNATZ, Ph.D.  
Executive Director

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BC:be  
ADP No. 030127-018