



Executive Director's
Report to the
Board of Harbor Commissioners

DATE: MAY 10, 2017

FROM: CONSTRUCTION

**SUBJECT: RESOLUTION NO. _____ -
AWARD AND APPROVAL OF CONSTRUCTION CONTRACT
CONTRACTOR: JRH CONSTRUCTION CO., INC.
(JRH CONSTRUCTION)
BERTH 93 CRUISE TERMINAL – CUSTOMS AND BORDER
PROTECTION SECURITY IMPROVEMENTS
SPECIFICATION NO. 2778**

SUMMARY:

Staff requests that the Board of Harbor Commissioners (Board) approve the award of the construction contract for Berth 93 Cruise Terminal – Customs and Border Protection (CBP) Security Improvements (Project) to JRH Construction Company, Inc. (JRH Construction). The Project will include improvements to CBP primary and secondary passenger processing areas, a closed circuit television system, an access control system, and related construction to accommodate the security improvements. The lowest responsive and responsible bidder is JRH, located at 17795 Sky Park Circle, Ste. J, Irvine, CA 92614. The contract amount, plus a 15% contingency, is \$2,526,520. The contract duration is 240 calendar days. The Harbor Department is financially responsible for expenses incurred under this contract.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Find that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) under Article III Class 1(1), of the Los Angeles City CEQA Guidelines;
2. Find that, in accordance with City Charter Section 1022, work under the subject contract can be performed more feasibly by an independent contractor rather than by City employees;
3. Waive the informality in JRH Construction's bid for not including the Affidavit of Non-Collusion at the time of bid;

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4. Award and approve, Specification No. 2778, for Item Nos. 1 through 9 of the proposal schedule, to JRH Construction, in the amount of \$2,196,974; that a 15% contingency not included in the original contract amount be applied for a total authorization of \$2,526,520; and authorize payment from the Harbor Department Construction Account. The contract time for performance of the work will be 240 calendar days from 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 final bid quantities and accept the construction contract upon its completion; and
7. Adopt Resolution No. _____.

DISCUSSION;

Background / Context – The Project will correct deficiencies identified at the Berth 93 Cruise Terminal by CBP in order to comply with the CBP security requirements for a medium-sized cruise operation. The improvements include modifications to the CBP primary and secondary passenger processing areas, replacement of the existing closed circuit television system, replacement of the existing access control system, and other related construction to accommodate the security improvements. An aerial site plan showing the location of the Project can be found in Transmittal 1.

This construction contract is temporary in nature and requires specific experience and equipment to perform the work. 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, as well as on the Port of Los Angeles website. The Harbor Department conducts a pre-bid conference to familiarize the prospective bidders with the Project and to answer questions related to the construction contract.

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Following 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 lowest 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 Inviting Bids for Specification No. 2778 was advertised on February 13, 2017 on the Port of Los Angeles website, in Chinese Daily News, Dodge Construction "Green Sheet", L.A. Watts Times, Los Angeles Times, and Metropolitan News Company to reach out to as many potential bidders as possible. A pre-bid meeting was held on February 28, 2017.

As authorized by the Executive Director on February 8, 2017, the Chief Harbor Engineer received three bids for the subject contract on March 23, 2017. The Analysis of Bids (Transmittal 2) lists the companies that submitted bids and their respective bid amounts. The bids were opened, and JRH Construction was declared the apparent lowest bidder at the time of the bid opening.

Based on the evaluation of the bids, staff determined that the Affidavit of Non-Collusion was missing in JRH Construction's bid, and informed JRH Construction of this finding. In their letter dated March 29, 2017, JRH Construction claims that their copy of the bid package indicates that the Affidavit of Non-Collusion was included in their bid proposal submitted to the Port (Transmittal 3), and asked the Harbor Department to find their bid responsive. JRH Construction provided a copy of their original bid documents which indicates that they had signed the Affidavit of Non-Collusion prior to bid, as well as provided a wet signature copy after the bid for our files (Transmittal 4).

Los Angeles Administrative Code Section 10.15 (d) regarding Competitive Bidding states that "Every bid or proposal to perform a contract with the City, or with any board, officer or employee thereof, shall include in the affidavit of the bidder or proposer that such bid or proposal is genuine, and not sham or collusive, nor made in the interest or on behalf of any person not herein named.....Any bid or proposal made without such affidavit, or in violation thereof, shall not be considered.....The officer, board or City Council, having jurisdiction over the contracting process, may permit any informality in such affidavit to be remedied, so as to comply with requirements, at any time prior to award of the contract."

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In light of the fact that the mistaken oversight of the Affidavit of Non-Collusion did not materially change the bid, and a copy of their bid documents submitted by JRH Construction demonstrates that JRH Construction had signed the Affidavit of Non-Collusion prior to bid, evidenced by the notarized signature, and after consultation with the City Attorney's office, staff recommends that the Board waive this informality in JRH Construction's bid.

Staff has verified JRH Construction's state contractor's license. In conformance with Section 10.8.4 of Ordinance No. 143429, verification is hereby made that JRH Construction 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. JRH Construction's bid has been found responsive. An approximate 15% contingency is recommended based on a qualitative review of the specific tasks, including schedule constraints and potential unforeseen conditions that may arise during construction, and design and scope changes to accommodate field conditions, for a total project cost of \$2,526,520.

This Project will be constructed in compliance with the Harbor Department's SBE/VSBE Program. The Harbor Department had set a minimum SBE participation level of 18%, of which 5% shall be VSBE participation. JRH Construction has provided the required documents regarding their SBE and VSBE participation. Since JRH Construction is an SBE, the proposed SBE participation level is 100%, and the VSBE participation level by Subcontractors/Suppliers is 5.12% (Transmittal 5). 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.

ENVIRONMENTAL ASSESSMENT:

The proposed action is awarding a construction contract to JRH Construction to upgrade the security system at the Berth 93 Cruise Terminal. As an activity involving interior alterations involving remodeling or minor construction where there be negligible or no expansion of use, the Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Article III Class 1(1), of the Los Angeles City CEQA Guidelines.

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FINANCIAL IMPACT:

Funds for fiscal year 2016/2017 in the amount of \$276,000 are budgeted in Capital Budget, Account No. 54510, Center No. 1007

FY 2016/2017	\$ 276,000
FY 2017/2018	\$ 2,250,520
Total	\$ 2,526,520

Funds for future fiscal years will be requested to be budgeted as part of the annual budget process, upon Board approval. The total construction budget for this Project, including contingency, is \$2,526,520. Subsequent to project completion, the Harbor Department will continue to fully bear responsibility for operating and maintenance costs at the location.

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. Such termination shall relieve the parties of any obligation previously incurred.

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CITY ATTORNEY:

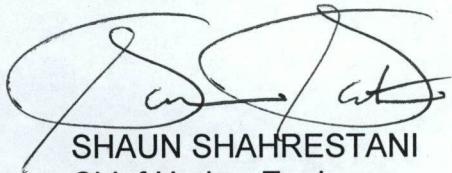
The Office of the City Attorney reviewed and approved Specification No. 2778 as to form and legality on January 24, 2017.

TRANSMITTALS:

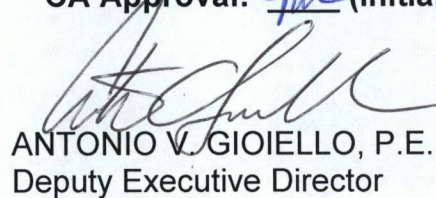
1. Aerial Site Plan and Detailed Location Map
2. Analysis of Bids
3. Letter from JRH Construction dated March 29, 2017
4. Copy of JHR Construction's Original Bid Package and Wet Signature copy of the Affidavit of Non-Collusion
5. Contractor and Subcontractor List

FIS Approval: MB (initials)

CA Approval: gme (initials)



SHAUN SHAHRESTANI
Chief Harbor Engineer
Construction Division



ANTONIO V. GIOIELLO, P.E.
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APPROVED:

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LW:lh
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File No. 4.6