



**THE PORT
OF LOS ANGELES**
Executive Director's
Report to the

Board of Harbor Commissioners

DATE: JULY 17, 2013

FROM: CONSTRUCTION

**SUBJECT: RESOLUTION NO. _____ -
AWARD AND APPROVAL OF CONSTRUCTION CONTRACT
CONTRACTOR: THE JOINT VENTURE OF HERZOG CONTRACTING
CORP. AND HERZOG TECHNOLOGIES INC. (HCC/HTI)
BERTH 200 RAIL YARD TRACK CONNECTIONS PROJECT
SPECIFICATION NO. 2745**

SUMMARY:

The Berth 200 Rail Yard Track Connections project (Project) will provide the railroad track tie-in connections on the east and west ends of the Berth 200 Rail Yard project currently in construction. The lowest responsive and responsible bidder is The Joint Venture of Herzog Contracting Corp. and Herzog Technologies, Inc (HCC/HTI) (CA license No. 976620), located at 600 S. Riverside Road, St Joseph, MO. 64507. The contract amount plus a 10% contingency is \$20,141,303, and the contract duration is 365 calendar days. The Project is partially funded under the State Bond Trade Corridor Improvement Fund (TCIF) through the State of California Department of Transportation in the amount of \$10,512,000.

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 and approve Specification No. 2745 for Item Nos. 1 through 37 of the proposal schedule to (HCC/HTI) in the amount of \$18,310,275; that a 10% contingency, not included in the original contract amount be applied for a total authorization of \$20,141,303; 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;
3. Authorize the Executive Director to execute and the Board Secretary to attest to this contract for and on behalf of the Board;

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4. 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; and
5. Adopt Resolution No. _____.

DISCUSSION:

Background and Context - On December 6, 2007, the Board certified the Berths 136-147 (TraPac) Container Terminal Project Environmental Impact Report (EIR). This EIR included an on-dock rail yard for TraPac, and the new Berth 200 Rail Yard project. The Berth 200 Rail Yard project will relocate the existing Pier A Rail Yard to the backlands area of Berth 200, allowing the former Pier A Rail Yard land to be used to create an on-dock rail yard for TraPac. The Berth 200 Rail Yard project will be constructed in two phases; Phase 1 includes the main storage tracks currently under construction, and Phase 2 includes the track tie-in connections at both ends, which are part of this contract. On February 17, 2011, the Board approved Resolution Nos. 11-7081 and 11-7082 for prequalification of bidders for construction of the Berth 200 Rail Yard project. On September 12, 2012, the Board approved Resolution Nos. 12-7384 and 12-7385 for prequalification of bidders for construction of the Berth 200 Rail Yard Track Connections project. Use of prequalified contractors will help ensure the safe, timely, and cost effective completion of the Project.

The Berth 200 Rail Yard Track Connections Project will provide the railroad track tie-in connections on the east and west ends of the Berth 200 Rail Yard project currently in construction. The Project is defined by the following main components, as shown on the attached layout drawings (Transmittal 3):

- Railroad Track
 - Railroad track work located on the east and west ends of the Berth 200 Rail Yard project that tie-in to existing mainline and terminal spur tracks.
- Railroad Signalization
 - Centralized Train Control (CTC) signals for mainline track improvements.
 - Grade crossing signal protection for five at-grade street crossings.
- Railroad Grade Crossing Street Improvements
 - Demolition of existing street improvements, existing substructure relocation, protection and abandonment, grading, paving, drainage, striping and fencing.
 - Coordination of utility removals by others.

Construction Award Process – City of Los Angeles Charter Section 371, Subdivision A – Competitive Bidding sets forth the procedure staff followed to award this contract. For

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construction contracts such as this one, the City of Los Angeles Harbor Department (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 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, Small Business Enterprise (SBE) participation, and other required documents are reviewed for compliance with Harbor Department and Federal funding 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.

The Notice Inviting Bids concerning Specification No. 2745 was advertised on April 24, 2013, on the Port of Los Angeles website, and in the Daily Breeze, Chinese Daily News, Dodge Construction News "Green Sheet", Hoy, and Metropolitan News Company.

As authorized by the Executive Director on June 20, 2013, the Chief Harbor Engineer received 4 bids for the subject contract on June 20, 2013. The Analysis of Bids (Transmittal 1) lists the companies that submitted bids and their respective bid amounts. The bids received were opened and HCC/HTI was declared the apparent lowest bidder.

Construction staff has verified HCC/HTI state license and project references. In conformance with Section 10.8.4 of Ordinance No. 143429, certification is hereby made that HCC/HTI 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. As such, HCC/HTI's bid has been found responsive. A 10% contingency is recommended based on a qualitative review of project specific risks due to potential unforeseen conditions that may arise during demolition, utility conflicts, and design and scope changes to accommodate field conditions and/or tenant's needs for a total contract of \$20,141,303.

HCC/HTI has provided the required documents regarding SBE participation. Their SBE subcontracting participation level is 25.88%, and their VSBE subcontracting participation level is 9.59% (Transmittal 2). The Harbor Department had set a minimum participation level of 6% for SBE and 3% for VSBE for this project.

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.

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ENVIRONMENTAL ASSESSMENT:

The proposed action is award of a contract to HCC/HTI for construction of the Berth 200 Rail Yard Track Connections Project. The Berth 200 Rail Yard project is an approved element of the Berths 136-147 [TraPac] Container Terminal Project EIR, which was certified by the Board on December 6, 2007. Therefore, as an activity for which the underlying project has previously been evaluated for environmental significance and processed according to the requirements of the California Environmental Quality Act (CEQA), 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 \$20,141,303 (including 10%) contingency through the fiscal year of 2014/2015. Funds for these improvements in the amount of \$16,533,000 have been budgeted for fiscal year of 2013/2014 Capital Projects, Account No. 54510, Center No. 1172, Program No. 000.

It is anticipated that the funds for this contract will be expended as follows:

FY 2013/2014:	\$ 16,533,000
FY 2014/2015:	<u>\$ 3,608,303</u>
Total	\$ 20,141,303

Upon Board approval, funds for future fiscal years will be requested to be budgeted as part of the annual budget process. The baseline construction budget for this Project is \$22,484,000. The Project is partially funded under the TCIF through the State of California Department of Transportation in the amount of \$10,512,000.

Although HCC/HTI 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.

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ECONOMIC BENEFITS:

Spending under the proposed contract will support 147 direct and 120 secondary one-year equivalent jobs for the five-county region.

CITY ATTORNEY:

The Office of the City Attorney reviewed and approved Specification No. 2745 as to form and legality on April 4, 2013.

TRANSMITTALS:

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

FIS Approval:  (initials)

CA Approval:  (initials)



SHAUN SHAHRESTANI
Chief Harbor Engineer
Construction Division



MICHAEL R. CHRISTENSEN
Deputy Executive Director

APPROVED:



GERALDINE KNATZ, Ph.D.
Executive Director

PTN:be
2745B02