



DATE: AUGUST 12, 2020

FROM: CONSTRUCTION

**SUBJECT: RESOLUTION NO. _____ -
AWARD AND APPROVAL OF CONSTRUCTION CONTRACT
CONTRACTOR: SULLY-MILLER CONTRACTING COMPANY
WILMINGTON WATERFRONT PROMENADE AND BUILDING
DEMOLITION
SPECIFICATION NO. 2780**

SUMMARY:

Staff requests approval of an award of a contract (Contract) to Sully-Miller Contracting Company (Sully-Miller), to construct the Wilmington Waterfront Promenade and Building Demolition (Project). The Project consists of construction of a community park adjacent to Banning's Landing. The lowest responsive and responsible bidder is Sully-Miller, located at 135 South State College Boulevard, Suite 400, Brea, CA 92821. The Contract amount of \$51,900,020, plus a 10% contingency, is \$57,090,022, and the Contract duration is 840 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 has been previously evaluated pursuant to 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. Award and approve, Specification No. 2780 for Item Nos. 1 through 91 of the Bid Proposal Line Items to Sully-Miller for the amount of \$51,900,020; that a 10% contingency not included in the original Contract amount be applied for a total authorization of \$57,090,022 and authorize payment from the Harbor Department Construction Account. The Contract time for performance of the work shall be 840 calendar days from the Notice to Proceed;

DATE: AUGUST 12, 2020

PAGE 2 OF 6

SUBJECT: WILMINGTON WATERFRONT PROMENADE AND BUILDING
DEMOLITION SPECIFICATION NO. 2780

4. Delegate and authorize the Executive Director to grant a Temporary Entry and Use Permit to the Contractor for the use and occupancy of the Contractor and Construction Management Field Office Location for the duration of the Contract;
5. Authorize the Executive Director to execute and the Board Secretary to attest to this Contract for and on behalf of the Board;
6. Delegate and authorize the Executive Director to adjust the final bid quantities and accept the construction Contract upon its completion in accordance with City Charter Section 655 (g); and
7. Adopt Resolution No. _____.

DISCUSSION:

Project Objectives - As part of the Wilmington Waterfront Program, this Project will realign the existing Water Street and build a waterfront community park adjacent to Banning's Landing. This Project will connect the Wilmington community with the waterfront, create open space, and develop visitor-serving commercial and green technology business development opportunities in and around the Port of Los Angeles. (Transmittal 1).

Project Description - This Project work includes construction of a realigned Water Street, waterfront promenade, public pier, public dock, public restroom with green roof, playground, and parking lots. Work also includes utilities, street work, grading, paving, striping, lighting, landscaping, and other improvements.

Contractor and Construction Management Field Office Location - A Contractor and Construction Management Field Office is required on all construction contracts for Contractor and Harbor Department personnel to be stationed in the vicinity of the project site, in order to support construction activities for the duration of the contract. Staff recommends that the Board delegate and authorize the Executive Director to grant a Temporary Use and Entry Permit (TEUP) to the Contractor for the use and occupancy of the Contractor and Construction Management Field Office Location as delineated and more particularly described on Drawing No. 1-3192 PH-05 (Transmittal 2). Under the TEUP, the permitted use shall be for the operation of both the Contractor's and the Construction Management's Field Office, the term shall be for the duration of the Contract, the Contractor shall owe no compensation for the use of the premises, and the Contractor shall indemnify the City and all of its boards, agents, officers, and employees in relation to the Contractor's use of the premises. All other terms of the TEUP, including but not limited to the appropriate insurance the Contractor shall procure and maintain in relation to the use of the premises, shall be at the sole discretion of the Executive Director. The Executive Director shall also have the sole discretion to revoke the TEUP,

DATE: AUGUST 12, 2020

PAGE 3 OF 6

**SUBJECT: WILMINGTON WATERFRONT PROMENADE AND BUILDING
DEMOLITION SPECIFICATION NO. 2780**

and issue a new TEUP, to relocate the Contractor and Construction Management Field Office Location to any other area within the Harbor District as necessary to meet the operational needs of the Harbor Department and Contractor.

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.

Bidders submit bids through the Port's Construction Division Business Opportunity Network (CDBON) System. The opportunity to submit bids closes once a predetermined time is reached. After bid closing, 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. 2780 (Specification) was advertised on the Port of Los Angeles website, Daily Breeze, Eastside Journal, Chinese Daily News, Dodge Construction "Green Sheet", Metropolitan News Company, and in the Los Angeles Business Assistance Virtual Network to reach out to as many potential bidders as possible. A pre-bid meeting was scheduled for March 17, 2020. Due to COVID-19, the pre-bid conference was canceled and bidders' questions were addressed through the CDBON.

As authorized by the Executive Director on February 11, 2020, the Chief Harbor Engineer received five bids for the Contract on June 18, 2020. Sully-Miller was declared the apparent lowest bidder with a bid of \$51,900,020. The analysis of bid results with the companies and their respective bid amounts are included in Transmittal 3. Sully-Miller submitted the required documents in Section 00012.09 within the time specified in the specifications. Staff has verified Sully-Miller's state license, which was found to be in good standing.

The Harbor Department had set a minimum SBE participation level of 17%, of which 5% shall be VSBE participation. Sully-Miller has provided the required documents regarding their SBE and VSBE participation, and staff has calculated their SBE/VSBE participation to be 27.81% and 7.51%, respectively (Transmittal 4).

DATE: AUGUST 12, 2020

PAGE 4 OF 6

**SUBJECT: WILMINGTON WATERFRONT PROMENADE AND BUILDING
DEMOLITION SPECIFICATION NO. 2780**

The Contract is consistent with State of California Prevailing Wage provisions. The Contract is subject to the local business preference ordinance adopted by the Board on April 5, 2012, and 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.

Bid Protest – In a letter dated June 19, 2020, Granite Construction Company (Granite), the second lowest bidder, submitted a bid protest requesting the Harbor Department find Sully-Miller's bid non-responsive for not listing an approved Los Angeles Department of Building & Safety (LADBS) fabricator in their bid, and award the contract to Granite. On July 9, 2020, TrussWorks International, Inc. (TrussWorks), the metal fabricator listed on Granite's bid, submitted a similar bid protest letter also stating Sully-Miller is non-responsive because their listed subcontractor is not an approved LADBS fabricator (Transmittal 5).

Staff, in consultation with the City Attorney, reviewed the bid protest and has concluded Sully-Miller's bid responsive. The Specification does not specify as to whether a subcontractor or lower-tier subcontractor be utilized as the fabricator but simply that a fabricator with the designated licenses be used. Sully-Miller's subcontractor, The Steel Erection Company, will use S&P Fabrication Services as its fabricator. S&P Fabrication Services is an approved Los Angeles Department of Building & Safety fabricator bearing license number FB03206. Response letters were sent to Granite and TrussWorks on July 9, 2020 and July 10, 2020, respectively.

Granite submitted a subsequent bid protest letter on July 16, 2020 claiming that The Steel Erection Company is affiliated with S&P Fabrication Services and should therefore not be considered as a VSBE. Consistent with Specification Section 00030.06, a listed subcontractor or supplier that satisfies the micro-business definition set forth by the California Department of General Services (DGS) qualifies for VSBE certification. Staff reached out to the DGS, which verified that both The Steel Erection Company and their affiliate S&P Fabrication are VSBEs. A response letter was sent to Granite on August 5, 2020. As such, Sully-Miller's bid should be deemed the lowest responsive, responsible bid (Transmittal 6).

ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of the award of this construction Contract to Sully-Miller, which is an activity for which the underlying project has been previously assessed in the Wilmington Waterfront Promenade Environmental Impact Report (SCH# 2008031065), which was certified by the Board on June 18, 2009. Therefore, the Director of Environmental Management has determined that the proposed action has been previously evaluated pursuant to the requirements of CEQA under Article II Section 2(i) of the Los Angeles City CEQA Guidelines.

DATE: AUGUST 12, 2020

PAGE 5 OF 6

SUBJECT: WILMINGTON WATERFRONT PROMENADE AND BUILDING
DEMOLITION SPECIFICATION NO. 2780

FINANCIAL IMPACT:

Funds in the amount of \$7,000,000 are budgeted for FY 2020-2021 in Account No. 54510 (Capital Construction Services), Center No. 1040, and Program No. 624. Funds are anticipated to be expended as follows:

FY 2020-2021	\$ 7,000,000
FY 2021-2022	\$ 30,000,000
FY 2022-2023	\$ 20,090,022
TOTAL	\$ 57,090,022

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

Although Sully-Miller 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.

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.

DATE: AUGUST 12, 2020

PAGE 6 OF 6

SUBJECT: WILMINGTON WATERFRONT PROMENADE AND BUILDING
DEMOLITION SPECIFICATION NO. 2780

CITY ATTORNEY:

The Office of the City Attorney reviewed and approved Specification No. 2780 as to form and legality on January 30, 2020.

TRANSMITTALS:

1. Aerial Site Plans
2. Contractor and Construction Management Field Office Location
3. Analysis of Bids
4. Contractor, Subcontractor, and Supplier List
5. Granite/TrussWorks Bid Protest and Response Letters
6. Granite's Second Bid Protest and Response Letters

FIS Approval: MB

CA Approval: gmb



SHAUN SHAHRESTANI
Chief Harbor Engineer
Director of Construction



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

APPROVED:



EUGENE D. SEROKA
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