

Water Division Headquarters  
1910 East University Avenue  
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Water Division- Tech Services & PMO  
2101 "G" Street, Building "A"  
Fresno, California 93703-2927  
559-621-5300 - FAX 559-498-4126 or 457-1568



**SENT VIA CERTIFIED U.S. MAIL**

**December 12, 2014**

**Mason Painting, Inc.  
ATTN: David Velasquez  
3242 Luyung Drive  
Ranch Cordova, Ca 95742**

**PROJECT: T-4 3 MG WATER STORAGE TANK AND BOOSTER PUMP STATION  
PROJECT, FRESNO, CALIFORNIA, BID # 3319**

**SUBJECT: SUBSTITUTION OF SUBCONTRACTOR**

**PLEASE BE ADVISED OF THE FOLLOWING:**

This letter is to inform you that Mountain Cascade, Inc., the prime contractor for the above referenced project does not intend to use your firm to perform the work listed in the project Specifications:

- Section 099000 "Paints",
- Section 099656 "Epoxy Coatings" &
- Section 099723 "Concrete & Masonry Coatings"

Mountain Cascade, Inc. claims that Mason Painting Inc. will not commit to and sign subcontractor agreement. The prime contractor has requested permission to substitute Murphy Industrial Coatings, located in 2704 Gundry Ave., Signal Hill, CA 90755-1811

In accordance with Section 4107 of the Public Contract Code, as noted below:

*Prior to approval of the prime contractor's request for the substitution, the awarding authority, or its duly authorized officer, shall give notice in writing to the listed subcontractor of the prime contractor's request to substitute and of the reasons for the request. The notice shall be served by certified or registered mail to the last known address of the subcontractor. The listed subcontractor who has been so notified has five working days within which to submit written objections to the substitution to the awarding authority. Failure to file these written objections constitutes the listed subcontractor's consent to the substitution. If written objections are filed, the awarding authority shall give notice in writing of the at least five working days to the listed subcontractor of a hearing by the awarding authority on the prime contractor's request for substitution.*

You have five (5) working days from the receipt of this letter to submit written objections to this office regarding the proposed substitution. Failure to file such written objections shall constitute your consent of the substitution.

Thank you in advance for your cooperation regarding this matter. If you have any questions, please contact me at (559) 621-1626, email to, [Paul.Maragoni@Fresno.Gov](mailto:Paul.Maragoni@Fresno.Gov) or write me at 2101 "G" Street, Building "A", Fresno, CA 93706.

Sincerely,

Paul Maragoni, P. E.  
Project Engineer  
Department of Public Utilities  
Water Division  
559-621-1626 - Phone  
559-457-1568 - Fax  
[Paul.Maragoni@Fresno.Gov](mailto:Paul.Maragoni@Fresno.Gov)

**Attachments:**

Mason Printing- Subcontractor Substitution Request letter  
Mountain Cascade-Prime Contractor Substitution Request Letter  
APPENDIX A: Copy of Section 4107.7 of the Public Contract Code

Copy: Mike Carbajal-Chief Engineering Technician  
Mike Tovar-Project Manager  
Mountain Cascade Inc. P.P. Box 5050, Livermore, Ca 94551  
Matt Willbanks-3<sup>rd</sup> Party Construction Manager-SGI  
1713 Tulare St., Ste 120, Fresno, Ca 93721

# APPENDIX A

## PUBLIC CONTRACT CODE

### SECTION 4100, 4101, 4103, 4106, 4107

(<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=pcc&group=04001-05000&file=4100-4114>)

4100. This chapter may be cited as the "Subletting and Subcontracting Fair Practices Act."

4101. The Legislature finds that the practices of bid shopping and bid peddling in connection with the construction, alteration, and repair of public improvements often result in poor quality of material and workmanship to the detriment of the public, deprive the public of the full benefits of fair competition among prime contractors and subcontractors, and lead to insolvencies, loss of wages to employees, and other evils.

4103. Nothing in this chapter limits or diminishes any rights or remedies, either legal or equitable, which:

(a) An original or substituted subcontractor may have against the prime contractor, his or her successors or assigns.

(b) The state or any county, city, body politic, or public agency may have against the prime contractor, his or her successors or assigns, including the right to take over and complete the contract.

4106. If a prime contractor fails to specify a subcontractor or if a prime contractor specifies more than one subcontractor for the same portion of work to be performed under the contract in excess of one-half of 1 percent of the prime contractor's total bid, the prime contractor agrees that he or she is fully qualified to perform that portion himself or herself, and that the prime contractor shall perform that portion himself or herself.

If after award of contract, the prime contractor subcontracts, except as provided for in Sections 4107 or 4109, any such portion of the work, the prime contractor shall be subject to the penalties named in Section 4111.

4107. A prime contractor whose bid is accepted may not:

(a) Substitute a person as subcontractor in place of the subcontractor listed in the original bid, except that the awarding authority, or its duly authorized officer, may, except as otherwise provided in Section 4107.5, consent to the substitution of another person as a subcontractor in any of the following situations:

(1) When the subcontractor listed in the bid, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract for the scope of work specified in the subcontractor's bid and at the price specified in the subcontractor's bid, when that written contract, based upon the general terms, conditions, plans, and specifications for the project involved or the terms of that subcontractor's written bid, is presented to the subcontractor by the prime contractor.

(2) When the listed subcontractor becomes insolvent or the subject

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of an order for relief in bankruptcy.

(3) When the listed subcontractor fails or refuses to perform his or her subcontract.

(4) When the listed subcontractor fails or refuses to meet the bond requirements of the prime contractor as set forth in Section 4108.

(5) When the prime contractor demonstrates to the awarding authority, or its duly authorized officer, subject to the further provisions set forth in Section 4107.5, that the name of the subcontractor was listed as the result of an inadvertent clerical error.

(6) When the listed subcontractor is not licensed pursuant to the Contractors License Law.

(7) When the awarding authority, or its duly authorized officer, determines that the work performed by the listed subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, or that the subcontractor is substantially delaying or disrupting the progress of the work.

(8) When the listed subcontractor is ineligible to work on a public works project pursuant to Section 1777.1 or 1777.7 of the Labor Code.

(9) When the awarding authority determines that a listed subcontractor is not a responsible contractor.

Prior to approval of the prime contractor's request for the substitution, the awarding authority, or its duly authorized officer, shall give notice in writing to the listed subcontractor of the prime contractor's request to substitute and of the reasons for the request. The notice shall be served by certified or registered mail to the last known address of the subcontractor. The listed subcontractor who has been so notified has five working days within which to submit written objections to the substitution to the awarding authority. Failure to file these written objections constitutes the listed subcontractor's consent to the substitution.

If written objections are filed, the awarding authority shall give notice in writing of at least five working days to the listed subcontractor of a hearing by the awarding authority on the prime contractor's request for substitution.

(b) Permit a subcontract to be voluntarily assigned or transferred or allow it to be performed by anyone other than the original subcontractor listed in the original bid, without the consent of the awarding authority, or its duly authorized officer.

(c) Other than in the performance of "change orders" causing changes or deviations from the original contract, sublet or subcontract any portion of the work in excess of one-half of 1 percent of the prime contractor's total bid as to which his or her original bid did not designate a subcontractor.

