

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, TO MAKE CERTAIN FINDINGS PURSUANT TO SECTION 4100 OF THE PUBLIC CONTRACT CODE AND AUTHORIZE THE ADDITION OF SUBCONTRACTORS TO A CONSTRUCTION CONTRACT BETWEEN CITY OF FRESNO AND CLEAN ENERGY INC.

WHEREAS, the City of Fresno, Department of Transportation, seeks to expand the capacity of the Compressed Natural Gas (CNG) bus fueling station utilized by Fresno Area Express to accommodate expansion of the CNG bus fleet; and

WHEREAS, on June 6, 2013, the Council of the City of Fresno approved a design/build contract agreement between the City of Fresno and Clean Energy, Inc. to expand the CNG bus fueling station. The prime contractor's proposal did not indicate work to be subcontracted; and

WHEREAS, California Public Contract Code Section 4104 of the Subletting and Subcontracting Fair Practices Act, requires prime contractors to disclose subcontracted work in excess of one-half of 1 percent of the prime contractor's total bid. Subletting or subcontracting of any portion of the work in excess of one-half of 1 percent of the prime contractor's total bid as to which no subcontractor was designated in the original bid shall only be permitted in cases of public emergency or necessity, and then only after a finding reduced to writing as a public record of the awarding authority setting forth the facts constituting the emergency or necessity; and

WHEREAS, on April 28, 2016, Clean Energy, Inc. requested to subcontract work in excess of one-half of 1 percent of for the project stating that the Prime Contractor's

1 of 4

Date Adopted:

Date Approved:

Effective Date:

City Attorney Approval:



Resolution No.

business model has changed since contract award and no longer has the capability and labor force to self-perform the contracted work.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fresno as follows:

1. Based upon substantial evidence provided in the record before it, the Council and the Agency find and determine the following:

Finding No. 1.1: The design/build project to expand the CNG fueling station was delayed due to insufficient electrical infrastructure preventing the expansion of the CNG bus fueling station.

Finding No. 1.2: Any necessary modifications to the electrical infrastructure are outside of the scope of work stated in the design/build contact agreement with Clean Energy, Inc..

Finding No. 1.3: The City of Fresno, Department of Transportation, was required to procure professional services of an electrical engineer to design the necessary electrical modifications and subsequently bid the construction contract. This contributed to the delay of the start of construction for the CNG bus fueling upgrades by Clean Energy, Inc..

Finding No. 1.4: Construction of the electrical modifications is anticipated to be sustainably complete in July 2016, allowing the CNG bus fueling station expansion to proceed.

Finding No. 1.5: The existing CNG compressors are near end of life and require significant maintenance to continue running at full capacity, resulting in the

station being non-operational for extended periods of time. The expansion will alleviate reliance on the older CNG compressors, increase fueling capacity for the City of Fresno and allow for maintenance to be performed without significantly interrupting CNG bus fueling.

Finding No. 1.6: The Department of Transportation finds it acceptable for the Prime Contractor to subcontract work in excess of one half of 1 percent of the Prime Contractor's total bid.

Finding No. 1.7: The completion of the CNG bus fueling expansion is a public necessity to support the current the CNG bus fleet and provide public transportation services to the City and County of Fresno.

2. The Council consents to the Prime Contractor's request to add subcontracts in excess of one half of one percent of the Prime Contractor's bid to the project as required by public necessity to complete the CNG bus fueling station expansion.

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STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2016.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2016
Mayor Approval/No Return: _____, 2016
Mayor Veto: _____, 2016
Council Override Vote: _____, 2016

YVONNE SPENCE, CMC
City Clerk

By: _____
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By: _____
Brandon M. Collet Date
Deputy