



Legislation Details (With Text)

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Title: Approve a substitution of a listed Subcontractor DL Masonry, for Construct Well Site Improvements at Pump Station 210A (Council District 1)

Sponsors: Public Works Department

Indexes:

Code sections:

Attachments: 1. 19-1994 Contractor's Request for Substitution Letter.pdf

Date	Ver.	Action By	Action	Result
7/25/2019	1	City Council	approved	

REPORT TO THE CITY COUNCIL

July 25, 2019

FROM: SCOTT L. MOZIER, PE, Director
Public Works Department

BY: BILL HERR, Construction Manager
Public Works Department, Construction Management Division

SUBJECT

Approve a substitution of a listed Subcontractor DL Masonry, for Construct Well Site Improvements at Pump Station 210A (Council District 1)

RECOMMENDATION

It is recommended that the City Council approve the request from Dawson Mauldin LLC., to substitute DL Masonry and utilize Stoney Masonry Inc., for the installation of masonry block and wrought iron portion of this project.

EXECUTIVE SUMMARY

Dawson Mauldin LLC., the General Contractor who was awarded the referenced project, has requested to substitute DL Masonry, who is listed in the bid documents as performing the installation of masonry block and wrought iron portion of the project. In accordance with the bid documents, Dawson Mauldin LLC., listed DL Masonry for installation of masonry block and wrought iron portion of the project because the work exceeds one-half of one percent of the total contract amount.

Dawson Mauldin LLC., notified the City by a letter dated May 29, 2019, that their Subcontractor, DL Masonry after having a reasonable opportunity to do so, has failed or refused to execute a written subcontract. Dawson Mauldin LLC., is asking that they be allowed to use Stoney Masonry Inc., to perform the installation of masonry block and wrought iron portion. This action requires Council approval because Public Contract Code Section 4107 requires consent of the awarding authority to a request by a prime contractor for a substitution of a subcontractor.

BACKGROUND

On March 14, 2019, a contract was awarded in the amount of \$744,725 to Dawson Mauldin LLC., for the Construct Well Site Improvements project; the Notice to Proceed was issued with a start date of June 6, 2019.

In the original proposal DL Masonry was listed as the subcontractor for the installation of masonry block and wrought iron portion of the contract. On May 29, 2019, Dawson Mauldin LLC., provided the City a written request to substitute the listed Subcontractor, since the listed Subcontractor has refused to perform his or her subcontract under Public Contract Code Section 4107(a) (1).

In accordance with Section 4107 of the Public Contract Code, a Prime Contractor may substitute a listed Subcontractor, with the consent of the awarding authority, when the listed subcontractor has refused to perform his or her subcontract as set forth in Section 4107.

The Subletting and Subcontracting Fair Practice Act requires the Prime Contractor to secure the permission of the awarding agency before substituting a non-listed subcontractor for a listed subcontractor in order to protect the public and subcontractors from bid shopping and bid peddling. (Southern California Acoustics Co., Inc. v. C.V. Holder, Inc. (1969), 71 Cal.2d 719,726

Dawson Mauldin LLC., has requested that they be allowed to substitute Stoney Masonry Inc. to perform the installation of masonry block and wrought iron portion of the contract in place of DL Masonry by a letter dated May 29, 2019. Section 4107 of the Public Contract Code allows the Prime Contractor to substitute listed Subcontractors with prior consent from the awarding authority.

In accordance with provisions of the Public Contract Code, the City has notified DL Masonry of the proposed substitution by certified mail delivered on June 7, 2019. DL Masonry did not provide written objections to the substitution. The City Attorney's Office finds the proposed substitution of subcontractor to be legal and proper if Council consents to the substitution. In accordance with Section 4107 the failure to file these written objections within five working days of receipt of that notification ending at 5 p.m. on June 14, 2019, constitutes the listed Subcontractor's consent to the substitution. The City has not received an objection in accordance with Public Contract Code 4107.

The replacement of the Subcontractor for the installation of masonry block and wrought iron portion of the contract will not increase the cost of the project.

This substitution does not affect the Disadvantaged Business Enterprise goal because DL Masonry is not a certified DBE.

ENVIRONMENTAL FINDINGS

This is not a project for the purposes of CEQA pursuant to CEQA guidelines section 15378(b)(5), as it

is an administrative action that will not result in direct or indirect changes to the environment.

LOCAL PREFERENCE

Local Preference was not considered because this action does not include a bid or an award of a City construction contract.

FISCAL IMPACT

There will be no impact to the General Fund or the project budget by this substitution.

Attachment:
Contractor's Request for Substitution Letter