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Title: Approve the substitution of a listed subcontractor for the Recycled Water Transmission Main, Southwest Quadrant, Project SW1B (Bid File 3413) (Council District 3 and Fresno County)

Sponsors: Department of Public Utilities

Indexes:

Code sections:

Attachments: 1. Letter from Garney.pdf, 2. Letter From Pacific Boring.pdf

Date	Ver.	Action By	Action	Result
2/2/2017	1	City Council	approved	Pass

REPORT TO THE CITY COUNCIL

February 2, 2017

FROM: THOMAS C. ESQUEDA, Director
Department of Public Utilities

THROUGH: MICHAEL CARBAJAL, Planning Manager
Department of Public Utilities - Water Division

BY: PATRICIA DIEP, Supervising Engineering Technician
Department of Public Utilities - Wastewater Management Division

SUBJECT

Approve the substitution of a listed subcontractor for the Recycled Water Transmission Main, Southwest Quadrant, Project SW1B (Bid File 3413) (Council District 3 and Fresno County)

RECOMMENDATION

Staff recommends the City Council approve the request from Garney Construction to substitute Pipe Jacking Trenchless, Inc. as an alternate boring crew to perform the 54-inch diameter bore

EXECUTIVE SUMMARY

Garney Construction, (the General Contractor awarded for the referenced project) has requested to substitute Pipe Jacking Trenchless, Inc. as an alternate subcontractor who is not listed in the bid

documents as the subcontractor for a portion of the work because the original listed subcontractor (Pacific Boring) is unable to provide the necessary resources to complete the project in the requested timeframe. 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 November 19, 2015, the Council awarded a contract in the amount of \$9,341,491 to Garney Construction, for the Recycled Water Transmission Main, Southwest Quadrant, Project SW1B.

In the original bid, Pacific Boring, Inc. of Caruthers, California, was listed as the subcontractor for the boring work associated with this project. On November 29, 2016, Pacific Boring provided Garney a written request to allow the substitution of an additional subcontractor for completion of the two 54-inch diameter bores, since the listed subcontractor failed to execute a written contract as provided under Public Contract Code Section 4107 (a) (1).

Pacific Boring could only provide a single crew rather than the requested two crews. As a result of their inability to provide the resources of a second crew, Pacific Boring agrees to allow the substitution of an additional subcontractor for the completion of the two 54-inch diameter bores.

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 fails or refuses to execute a subcontract of the Prime contractor as set forth in Section 4107.

The Subletting and Subcontracting Fair Practices 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 subcontractor from “bid shopping and bid peddling” Southern California Acoustic v. C.V. Holder, Inc. (1969) 71 Cal.2d 719, 726 fn.7).

Garney Construction has requested the substitution of Pipe Jacking Trenchless, Inc. as the second boring crew and resources to complete the project within the necessary timeframes by letter dated November 30, 2016. Garney Construction attached a separate letter from Pacific Boring dated November 29, 2016 stating their inability to perform the subcontract work in providing a second boring crew. The City has not received an objection in accordance with Public Contract Code 4107. The City Attorney’s office finds the proposed substitution of subcontractor to be legal and proper if Counsel consents to the substitution

ENVIRONMENTAL FINDINGS

By the definition provided in the California Environmental Quality Act (CEQA) Guidelines Section 15378 the award of this contract does not qualify as a “project” for the purpose of CEQA.

LOCAL PREFERENCE

Local preference was not implemented; this item is a substitution of a named contractor.

FISCAL IMPACT

There will be no fiscal impact to the General Fund or the project budget because of this substitution

Attachments:

Letter from Garney Construction to City of Fresno requesting substitution

Letter from Pacific Boring requesting substitution