



Legislation Details (With Text)

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Title: Approve the substitution of a listed Subcontractor, Safety Striping Service, Inc. of Goshen, CA, to install the traffic stripes and pavement markings on the Lewis Eaton Trail Resurfacing Project ID PW00666 (Council District 6)
Sponsors: Public Works Department
Indexes:
Code sections:
Attachments: 1. 17-1205 Request for Substitution.pdf, 2. Supplement - Letter from Safety Striping Service, Inc..pdf

Date	Ver.	Action By	Action	Result
9/21/2017	1	City Council	approved	Pass

REPORT TO THE CITY COUNCIL

September 21, 2017

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Public Works Department

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SUBJECT

Approve the substitution of a listed Subcontractor, Safety Striping Service, Inc. of Goshen, CA, to install the traffic stripes and pavement markings on the Lewis Eaton Trail Resurfacing Project ID PW00666 (Council District 6)

RECOMMENDATION

It is recommended that the City Council approve the request from JT2 dba Todd Companies Inc. (Todd Companies), to substitute Safety Striping Service, Inc. (Safety Striping) and utilize T&T Pavement Markings and Products (T&T) to install the traffic stripes and pavement markings on the Lewis Eaton Trail Resurfacing project.

EXECUTIVE SUMMARY

Todd Companies, the General Contractor who was awarded the referenced project, has requested to substitute Safety Striping, who is listed in the bid documents as the traffic stripes and pavement markings installer. In accordance with the bid documents, Todd Companies listed Safety Striping for the traffic striping portion of the project because the work exceeds one-half of one percent of the total contract amount. Todd Companies notified the City by a letter dated July 19, 2017, that their traffic striping subcontractor, Safety Striping, after having a reasonable opportunity to do so, has failed or refused to execute a written subcontract. Todd Companies is asking that they be allowed to use T&T to perform the traffic stripes and pavement markings installation portion of the project. 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 April 13, 2017, a contract was awarded in the amount of \$133,176 to Todd Companies for the Lewis Eaton Trail Resurfacing project; the Notice to Proceed was issued with a start date of July 10, 2017.

In the original proposal, Safety Striping, was listed as the subcontractor for the traffic stripes and pavement markings portion of the contract. On July 19, 2017, Todd Companies 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)

Todd Companies has requested that they be allowed to substitute T&T Pavement Markings and Products to perform the traffic stripes and pavement markings subcontract work in place of Safety Striping by letter dated July 19, 2017. 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 Safety Striping of the proposed substitution by certified mail delivered on July 24, 2017. Safety Striping 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 July 31, 2017 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 traffic stripes and pavement markings portion of the contract will not increase the cost of the project.

This substitution does not affect the Disadvantaged Business Enterprise goal because Safety

Striping 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:
Request for Substitution