

AGENDA ITEM NO.

COUNCIL MEETING 03/08/12

APPROVED BY



DEPARTMENT DIRECTOR

CITY MANAGER

March 8, 2012

FROM: PATRICK WIEMILLER, Director
Public Works Department

THRU: EFREN BAÑUELOS, Assistant Director *EB*
Public Works Department, Capital Management Division

BY: JAMES SULLIVAN, Construction Manager *JS*
Public Works Department, Construction Management Division

SUBJECT: APPROVE A SUBSTITUTION OF A LISTED SUBCONTRACTOR FOR THE
BUILDING DEMOLITION AT 2546 S.WILLOW AVENUE
PROJECT: PC00090 – COUNCIL DISTRICT 5

RECOMMENDATION

It is recommended that the City Council approve the request from Caglia Demolition to substitute Bradley and Sons Inc. and utilize Tezak Pump Company for the well abandonment portion of the Building Demolition at 2546 S. Willow located in Council District 5.

EXECUTIVE SUMMARY

Caglia Demolition, the General Contractor who was awarded the referenced project, has requested to substitute Bradley and Sons, Inc. who is listed in the bid documents as the well abandonment subcontractor. In accordance with the bid documents, Caglia Demolition listed Bradley and Sons, Inc. for the well abandonment portion of the project because the work exceeds one-half of one percent of the total contract amount. Caglia Demolition notified the City by letter dated January 18, 2012 that their well abandonment subcontractor, Bradley and Sons Inc. has failed to execute a subcontract. Caglia Demolition is asking that they be allowed to use Tezak Pump Company to perform the well abandonment 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 October 25, 2011, a contract was awarded in the amount of \$30,500.00 to Caglia Demolition for the Building Demolition at 2546 S. Willow; the Notice to Proceed was issued on January 3, 2012.

In the original proposal Bradley and Sons, Inc. of Del Rey, California, were listed as the subcontractor for the well abandonment work associated with the contract. On January 18, 2012 Caglia Demolition provided the City a written request to substitute the listed well abandonment subcontractor, since the listed Subcontractor has failed to execute a written contract under Public Contract Code Section 4107(a)(1).

REPORT TO THE CITY COUNCIL

Request to Substitute Subcontractor Bradley and Sons Building Demolition at 2546 Willow Ave PC00090

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In accordance with Sections 4107(a)(1) of the Public Contracts Code, a Prime Contractor may substitute a listed Subcontractor, with the consent of the awarding authority, when the listed subcontractor has failed to execute a written contract 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 subcontractors from "bid shopping and bid peddling" - Southern California Acoustic (1969) 71 Cal.2d719, 726 fn.7).

Caglia Demolition has requested that they be allowed to utilize Tezak Pump Company for the well abandonment subcontract work in place of Bradley and Sons Inc., by letter dated January 18, 2012. 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 Bradley and Sons, Inc., of the proposed substitution by certified mail delivered January 19, 2012. Bradley and Sons, Inc. did not timely provide written objections 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 January 26, 2012 constitutes the listed Subcontractor's consent to the substitution. The City has not received a timely 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 Council consents to the substitution.

The replacement of the Subcontractor for the well abandonment portion of the contract will not increase the cost of the project.

This project does not contain an Underutilized Disadvantaged Business Enterprise (UDBE) requirement and therefore will not affect the UDBE status of the contract.

FISCAL IMPACT

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