



RESOLUTION NO. 2016-115

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



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 16th day of June, 2016.

AYES : Brand, Brandua, Quintero, Soria Caprioglio
NOES : None
ABSENT : Baines, Olivier
ABSTAIN : None

YVONNE SPENCE, CMC
City Clerk

By: *Yvonne Spence*
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By: *Brandon M. Collet* *6/17/16*
Brandon M. Collet Date
Deputy



BIDDER'S NAME: Clean Energy

**CALIFORNIA LABOR CODE SECTION
1777.5**

PLEASE ANSWER YES OR NO: Was the undersigned Bidder in the last six months determined to have willfully failed to comply with the provisions of California Labor Code Section 1777.5 relating to apprentices on Public Works?

YES () NO (x)

**LIST OF
SUBCONTRACTORS**

Pursuant to the provisions of California Public Contract Code **sections 4100 to 4113 inclusive**, the undersigned hereby designates below, for the Project, opposite various portions of work, the names and locations of the places of business of each Subcontractor who will perform work or labor or render service to the Contractor in or about the construction of the Work or improvement, or a subcontractor licensed by the State of California who, under subcontract to the prime contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of 1 percent of the prime contractor's total bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half of 1 percent of the prime contractor's total bid or ten thousand dollars (\$10,000), whichever is greater. **All work not listed below shall be performed by the undersigned Bidder.** It is understood that the Bidder, if awarded the Contract, shall not substitute any Subcontractor in place of the Subcontractors herein designated, or sublet or subcontract any of the work as to which a Subcontractor is not herein designated, without the written consent of the City. The subletting or subcontracting of any work for which there was no Subcontractor designated in the original bid may be permitted only in case of public emergency or necessity, and only after the City Council makes findings in a Resolution setting forth facts constituting the emergency or necessity.

List one firm only for each portion of work:

CERTIFICATION

The Bidder certifies under penalty of perjury under the Jaws of the State of California that his/her business or the corporation is not listed on the Comptroller General's list of ineligible bidders/contractors.

CLEAN ENERGY SUB CONTRACTORS				
			CONTRACTOR	
<u>NAME</u>	<u>LOCATION</u>	<u>WORK TO BE SUBLET</u>	<u>LICENSE #</u>	<u>DIR #</u>
EFS West	Santa Clarita, CA	General oversite & mechanical	826003	1000011646
MISTRAS	Bakersfield, CA	Non Destructive Testing	Service Tech only	Pending
EFS WEST SUB CONTRACTORS				
			CONTRACTOR	
<u>NAME</u>	<u>LOCATION</u>	<u>WORK TO BE SUBLET</u>	<u>LICENSE #</u>	<u>DIR #</u>
McAlister Electric	Canyon County, CA	Electrical work	807377	1000012621



Fonseca Construction	Riverside, CA	Concrete work	826307	1000012330
Marco Ramirez Welding	Oxnard, CA	Welding work	901830	Pending
American Crane	Fresno, CA	Crane service	C61-D21 957693	1000000426
Fence Masters	Fresno, CA	Fence work	260602	1000026722
Kasco Fab	Fresno, CA	Dispenser Awning	433448	1000000615
Seal Right Paving and Grading	Fresno, CA	Grading and Paving	805585	1000003772

The above Certification is part of the Bid Proposal. Signing this Bid Proposal on the signature page thereof shall also constitute signature of this Certification.

Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.