



Office of the City Manager

RECESS ITEM
CONSENT CALENDAR
 April 20, 2021

To: Honorable Mayor and Members of the City Council
 From: Dee Williams-Ridley, City Manager
 Submitted by: Scott Ferris, Director, Parks Recreation & Waterfront
 Subject: Addition of Subcontractors to Robert E. Boyer Construction, Inc. Contract No. 32000230

RECOMMENDATION

Adopt a Resolution ratifying the action taken by the City Manager during recess to add the following subcontractors to Contract No. 32000230 with Robert E. Boyer Construction, Inc. for the construction of the Berkeley Tuolumne Camp Project (“Project”): Morrison Home Improvement, John Losoya Construction, Inc., and Dave Smith Construction, Inc.; and approving the finding that this action is necessary to mitigate the impact of significant labor shortages resulting from the effects of COVID-19 on the Project.

FISCAL IMPACTS OF RECOMMENDATION

There are no fiscal impacts associated with this recommendation.

CURRENT SITUATION AND ITS EFFECTS

On January 24, 2020 the City issued a request for bids for the reconstruction of Berkeley Tuolumne Camp (Spec No. 20-11362-C). The City received four bids. On April 14, 2020, City Council awarded the contract to the lowest responsible and responsive bidder, Robert E. Boyer Construction, Inc. (“Boyer”), Contract No. 32000230. Construction began May 26, 2020, and is anticipated to last about two years.

Boyer originally anticipated that it would self-perform all framing work, and did not include any framing subcontractors in its original subcontractors list (Document 00 4330). However, framing work on the Berkeley Tuolumne Camp Project has been seriously impacted by labor shortages resulting from the effects of COVID-19. Public Contract Code Section 4109 allows the addition of subcontractors in excess of one-half of one percent of the Contractor’s total bid as to which no subcontractor was designated in the original bid after a finding by the awarding authority in cases of public emergency or necessity.

Addition of Subcontractors to Robert E. Boyer Construction, Inc. Contract
Berkeley Tuolumne Camp Construction Project

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The framing subcontractors proposed to be added to Boyer's subcontractors list include Morrison Home Improvement, John Losoya Construction, Inc. and Dave Smith Construction, Inc.

BACKGROUND

In August 2013, the California Rim Fire destroyed the Berkeley Tuolumne Camp (BTC), a residential family camp located within the Stanislaus National Forest. The closure of BTC has significantly impacted the Department of Parks, Recreation and Waterfront 'Camps Fund', which historically depended on the successful programming at BTC to support the funding of camps programs within the City, as well as capital needs. Due to insurance coverage of business interruption losses and to successful re-organization of Camps programming, the Camps fund is projected to stay positive through FY22, however it has been unable to contribute to capital funding since the Rim Fire (historically \$250,000 per year). Completing the Project on schedule will allow Camp to re-open in 2022. BTC revenue in 2022 is critical to the functioning of the Camps fund and City-wide Camp programming.

On January 24, 2020 the City issued a request for bids for the reconstruction of Berkeley Tuolumne Camp. Bids were due on March 12, 2020. The California state-wide "Stay at Home" order due to COVID-19 was issued on March 19, 2020. On April 14, 2020, City Council awarded the contract to the lowest responsible and responsive bidder, Robert E. Boyer Construction, Inc. Boyer could not have reasonably foreseen the impacts of the COVID-19 emergency on the Project at the time of bid. Public Contract Code section 4109 provides that "[s]ubletting 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."

On March 15, 2021, Boyer Construction requested the addition of framing subcontractors to its subcontractor list in order to mitigate the impact of the COVID-19 emergency to its labor force. Framing work is on the critical path for Project completion. The framing subcontractors proposed to be added to Boyer's subcontractors list include Morrison Home Improvement, John Losoya Construction, Inc. and Dave Smith Construction, Inc.

ENVIRONMENTAL SUSTAINABILITY

This recommendation has no impact on the environmental sustainability of the Project.

RATIONALE FOR RECOMMENDATION

Boyer Construction, Inc. could not have reasonably anticipated the impacts of the COVID-19 emergency on the Project. The addition of framing subcontractors is necessary to mitigate the impacts of COVID-19 on the Project.

ALTERNATIVE ACTIONS CONSIDERED

No alternatives were considered.

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CONTACT PERSON

Scott Ferris, Director, PRW, 981-6700

Liza McNulty, Project Manager, PRW, 981-6437

Attachments:

1: Resolution

RESOLUTION NO. ##,###-N.S.

RATIFYING THE ACTION TAKEN BY THE CITY MANAGER DURING RECESS TO
ADD SUBCONTRACTORS TO ROBERT E. BOYER CONSTRUCTION, INC.
CONTRACT

WHEREAS, an invitation for bids was duly advertised and four bids were opened on March 12, 2020 and Robert E. Boyer Construction, Inc. was the apparent low bidder; and

WHEREAS, on April 14, 2020 the City of Berkeley authorized the City Manager to execute a contract and any amendments, extension, and/or change orders until completion of the Project in accordance with the approved plans and specifications with Robert E. Boyer Construction, Inc. for the Berkeley Tuolumne Camp Project; and

WHEREAS, the impacts of the COVID-19 emergency could not have been reasonably foreseen at the time of bid; and

WHEREAS, the addition of subcontractors to the Robert E. Boyer, Inc. Contract No. 32000230 is necessary to mitigate the labor impacts of COVID-19 on the Project.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council ratifies the action taken by the City Manager during recess to add the following subcontractors to the Robert E. Boyer Construction, Inc. Contract No. 32000231: Morrison Home Improvement, John Losoya Construction, Inc. and Dave Smith Construction, Inc.; and

BE IT FURTHER RESOLVED that the Council of the City of Berkeley approves the finding that this action is necessary to mitigate the impact of significant labor shortages resulting from the effects of COVID-19 on the Project.