



San Diego Unified
SCHOOL DISTRICT

Barbara Archer
Contract Specialist
CONSTRUCTION
858.637.6229
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October 8, 2014

FAXED
10/8/14

Mr. Henri Duisters
T. B. Penick & Sons, Inc.
15435 Innovation Dr. Ste. 100
San Diego, CA 92128

VIA FACSIMILE ONLY
FAX: (858) 558-1881

Dear Mr. Duisters:

**SUBJECT: WHOLE SITE MODERNIZATION AT BELL MIDDLE SCHOOL-CZ14-0798-57
REQUEST FOR SUBSTITUTION OF SUBCONTRACTOR – ACOUSTICAL PANELS/TILE
CEILINGS- APPROVAL**

Your request of September 29, 2014 to substitute TP Acoustics, Inc. for CMS Interiors, Inc. to do the acoustical panels/tile ceiling scope of work in accordance with Public Contract Code Section 4107, is approved based on the District fulfilling the five-day notification requirement in which to allow CMS Interiors, Inc. to acknowledge the substitution and CMS Interiors, Inc.'s written mutual request for substitution.

TP Acoustics, Inc.
Mark Drozanowski
9225 Mira Este Court, Suite A
San Diego, CA 92126
License #592834

CMS Interiors, Inc.
Matt Schmidt
9373 Activity Road, Suite D
San Diego, CA 92126

Please note that all other contractual requirements, including any required certifications, remain in effect.

If you have any questions regarding the above, please contact me.

Sincerely,

Barbara Archer
Contract Specialist

cc: ✓ TP Acoustics, Inc.
✓ CMS Interiors, Inc.
R. Myers
J. Palacio
G Champion
I. Anderson

BROADCAST REPORT

TIME : 10/08/2014 08:55
 NAME : SDUSD CONST MGMT
 FAX : 8584961953
 TEL : 8586375266
 SER.# : BROG1J294805

PAGE(S)

01

DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
10/08	08:33	95581881 <i>Penick</i>	18	01	OK	ECM
10/08	08:54	6939005 <i>CMS</i>	00	00	BUSY	
10/08	08:55	2710644 <i>TP. Alvarez</i>	00	00	BUSY	

BUSY : BUSY/NO RESPONSE
 NG : POOR LINE CONDITION
 CV : COVERPAGE

BROADCAST REPORT

TIME : 10/08/2014 09:14
 NAME : SDUSD CONST MGMT
 FAX : 8584961953
 TEL : 8586376266
 SER.# : BROG1J294805

PAGE(S)	01
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DATE	TIME	FAX NO./NAME	DURATION	PAGE(S)	RESULT	COMMENT
10/08	09:13	96839805 <i>CMS</i>	15	01	OK	ECM
10/08	09:14	92710644 <i>TPRconstia</i>	15	01	OK	ECM

BUSY: BUSY/NO RESPONSE
 NG : POOR LINE CONDITION
 CV : COVERPAGE

TO: Mrs. Barbara Archer, Facilities Contracts Supervisor, San Diego Unified School District

RE: Mutual Request for Substitution of CMS Interiors, Inc. for the Acoustical Panels/Tile Ceiling

PROJECT: Bell MS WSM (CZ-14-0798-57) ["Project"]

DATE: October 2, 2014

On September 29, 2014, T.B. Penick & Sons, Inc.'s ("TBP") requested a substitution of CMS Interiors, Inc. ("CMS") for the Acoustical Panels/Tile Ceiling ("subcontract work") portion of the Project. CMS objects to the request for substitution because CMS does not agree with the reason upon which the substitution is being sought. TBP and CMS have a good faith dispute related to the scope of work included in CMS's bid compared to the scope of work included in the subcontract presented to CMS by TBP, as well as related to other terms included in the presented subcontract. Based on this good faith disagreement, the parties have been unable to finalize the terms of a written subcontract. Therefore, TBP and CMS agree to allow TBP to substitute another subcontractor in place of CMS for the subcontract work on the Project and seek consent for this voluntary substitution by the San Diego Unified School District pursuant to Public Contract Code, Section 4107(b). TBP and CMS submit this request for CMS's substitution from the Project with the understanding that both TBP and CMS reserve all their respective rights and defenses related to this disagreement and without prejudice to either of them for any reason. TBP and CMS believe the best course of action is for the San Diego Unified School District to consent to this substitution of CMS under Public Contract Code Section 4107(b), based on this mutual request and agreement.

T.B. PENICK & SONS, INC.

By:  Dated: October 2, 2014

Name: Greg Lee, Executive Vice President

(858) 558-1800

15435 Innovation Drive, Suite 100, San Diego, CA. 92128

CMS INTERIORS, INC.

By:  Dated: October 2, 2014

Name: Matthew Schmidt, President

(858) 693-9000

9373 Activity Road, Suite D, San Diego, CA. 92126

