



DATE: April 24, 2018

TO: Mayor and City Council

FROM: Interim Director of Public Works
City Attorney

SUBJECT: Fire Stations 1-5 Improvements: Public Contract Code § 4107 Hearing
for Subcontractor Substitution Request for Electrical Work

RECOMMENDATION

That Council conducts a public hearing to consider the request by Arntz Builders, Inc., to substitute the electrical subcontractor pursuant to Public Contract Code § 4107 and makes a determination whether Arntz' request should be allowed.

SUMMARY

On March 26, 2018, Arntz Builders, Inc., submitted a letter requesting substitution of their electrical subcontractor, DAL Technology, due to delays and disruptions caused to the project by said subcontractor. Upon receipt of the correspondence from Arntz, the City sent a notification to DAL Technology regarding Arntz' request. On March 30, 2018, DAL Technology submitted a letter objecting to the substitution request and requested a hearing. Pursuant to the Public Contract Code the City Council must conduct a hearing to determine whether Arntz should be allowed to substitute another subcontractor in place of DAL Technology. The parties will present their positions to the Council, and may present written evidence or live testimony.

BACKGROUND

On March 21, 2017, Council awarded the construction contract for the Fire Stations 1-5 Improvements project to Arntz Builders, Inc. Arntz Builders, Inc, listed DAL Technology as their electrical subcontractor to perform all electrical related work.

DISCUSSION

Construction of the fire stations started on April 24, 2017. Initially, the project was to have been completed in March 2018 per the allotted contract time. Currently, Fire Stations 4 and 5 are under construction and are anticipated to be complete by July 2018. The project experienced delays due to a combination of factors According to Arntz' letter to the City on March 26, 2018, one factor was due to inadequate work force supplied by the electrical subcontractor DAL Technology. (Attachment II). In that letter, Arntz requested that the City

authorize and consent to substituting DAL Technology with Cal Pacific Systems due to the delays and disruptions to the progress of the work that DAL Technology caused. That same day, staff sent a letter (Attachment III) to DAL Technology informing them that Arntz Builders, Inc., submitted a request for subcontractor substitution and that per the Public Contract Code they have five working days to object to the substitution. On March 30, 2018, DAL Technology submitted a letter (Attachment IV) objecting to the substitution request and requesting a hearing.

Public Contract Code § 4107 generally prohibits a general contractor from substituting a subcontractor listed in the original bid with another subcontractor unless consented to by the awarding authority. A subcontractor that is subject to a substitution request is entitled to submit written objections to the substitution request. If written objections are submitted, the awarding authority must conduct a hearing on the contractor's substitution request to determine if it should be allowed. The parties have been invited to submit written evidence in advance of the hearing. Any written evidence received by the City prior to publication of the agenda will be provided to the Council prior to hearing. The parties will be given an opportunity to present their positions and provide additional live testimony during the hearing. Based upon the evidence submitted, the City Council must determine if the request for substitution should be granted.

ECONOMIC IMPACT

There is no economic impact associated with this item.

FISCAL IMPACT

The Adopted FY2018 CIP includes a total of \$10,830,000 for the design and construction of the Fire Stations 1-5 project in the Measure C Fund. This request for subcontractor substitution will cause additional delays to the completion of the project and will likely result in delay claims.

STRATEGIC INITIATIVES

This agenda item does not directly relate to the Council's Strategic Initiatives.

SUSTAINABILITY FEATURES

The action taken for this report will not result in physical development, purchase, or service, or a new policy/legislation.

PUBLIC CONTACT

No special public contact has occurred associated with this action other than standard publication of the agenda in compliance with the Brown Act.

NEXT STEPS

If Council consents to the substitution request by Arntz Builders, Inc., DAL Technology will be replaced by Cal Pacific Systems. If Council does not consent to the substitution, DAL Technology will remain on the project.

Prepared by: Kathy Garcia, Deputy Director of Public Works
Michael Vigilia, Senior Assistant City Attorney

Recommended by: Alex Ameri, Interim Director of Public Works
Michael S. Lawson, City Attorney

Approved by:



Kelly McAdoo, City Manager