



AGENDA REPORT

Public Works

DATE:	October 25, 2022
TO:	Mayor Butt and Members of the City Council
FROM:	Nickie Mastay, Deputy City Manager Yader Bermudez, Retired Public Works Annuitant
Subject:	Booker T. Anderson Community Center Fire Restoration Second Contract Award
FINANCIAL IMPACT:	The proposed expenditure of \$3,302,178 will be funded from the 2022-2023 Risk Management Budget. This request includes \$2,933,200 low bid, plus \$43,780 Alternate #1, plus copper vandalism \$25,000, plus \$300,198 contingency. Account String: 50182316-400642-23008.
PREVIOUS COUNCIL ACTION:	February 1, 2022 and August 19, 2022
STATEMENT OF THE ISSUE:	City staff is requesting authorization to contract with Arntz Builders, Inc. for the Booker T. Anderson Community Center Fire Restoration project, located at 960 South 47th Street., Richmond.
RECOMMENDED ACTION:	APPROVE contract with Arntz Builders, Inc. for the Booker T. Anderson Community Center Fire Restoration project, located at 960 South 47th Street, Richmond, in an amount not to exceed \$3,302,178 including \$2,933,200 low bid, plus \$43,780 Alternate #1, plus copper vandalism \$25,000, plus \$300,198 contingency – Public Works Department (Nickie Mastay 510-620-6609).

DISCUSSION:

The Booker T. Anderson Community Center suffered extensive fire damage on October 28, 2020, as the result of homeless activity at the Park. This fire was concentrated on the West side of the building affecting the Library, Multi-Use Rooms, and Graphic Arts Room. The facility fire damage was abated including demolition and shoring of all affected materials, including non-salvageable or non-cleanable building materials such as, but not limited to, glue lam beams, shear walls, vertical load walls and removal of all damaged building materials such drywalls, floor coverings, insulation, windows, electrical, plumbing, etc.

On February 1, 2022, City Council awarded the contract to Angotii & Reilly, Inc. in an amount not to exceed \$2,583,900 including \$2,349,000 low bid plus \$234,900 contingency with **zero local participation**. However, the City experienced numerous delays in getting contract documentation completed and getting the contractor to move forward. This timeline is documented in the City Council Agenda Report on August 19, 2022.

On May 20, 2022, Yader A Bermudez, Project Manager, delivered to the Contractor the project Noticed to Proceed (NTP) to start working on June 1, 2022. In the month of July 2022, numerous meetings and communications occurred trying to resolve insurance issues. The City attempted to work through the California Joint Powers Risk Management Authority. The City believed a solution was reached, but on July 19, the contractor again asked the City to provide the insurance. On August 11, through their legal counsel, the Contractor blamed vandalism for delays and insisted that the insurance was a City cost.

Given the long delay with issues still unresolved, on August 19, 2022, City staff recommended and the City Council terminated the Angotii & Reilly, Inc. contract due to failure to proceed with contractual work and submittal of their Builder's Risk Insurance as required by Project Specifications Section 00 60 00 BOND AND INSURANCE FORMS and Executed Construction Agreement Section 1.9.c, Insurance and Bonds Requirements.

Thereafter, on September 20, 2022, the Contractor, Angotii & Reilly, Inc., submitted a claim for \$385,784. The claim includes \$188,567 which is their alleged profit on the contract; however, the contract does not allow profit as damages in the event of termination.

The community relies greatly on the Booker T. Anderson Community Center and has been harmed greatly by the eight-month delay in carrying out the project. To mitigate damages, in early September 2022, City staff contacted Arntz Builders, Inc., the next lowest bidder with a bid in the amount of \$2,668,981, to submit a revised bid for same project based on the original scope of work for City consideration. On September 30, 2022, Arntz Builders Inc. submitted their revised bid in the amount of 2,933,200, with **36% local participation**.

On October 4, 2022, City Council discussed in Closed Session the claims and need to mitigate damages and directed City staff to bring forward an alternative contractor to perform the work at the earliest possible time for City Council contract award.

The selected Contractor will be required to sign a First Source and Compliance Agreement with the City as part of the contract execution process to ensure the local employment ordinance goal is met.

The Arntz Builders Inc. contract is for a significantly higher amount as construction costs have risen as much as twenty-five percent (25%). However, due to their familiarity with the project, City staff believes this is the fastest way to proceed. The City will have to deal with the claims brought forth by Angotii & Reilly, Inc., but doing so will not delay the project.

DOCUMENTS ATTACHED:

Attachment 1 – Revised Bid

Attachment 2 – Contract Agreement