



COUNTY OF SAN DIEGO

LAND USE AGENDA ITEM

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DATE: March 4, 2026

07

TO: Board of Supervisors

SUBJECT

AUTHORIZE SUBCONTRACTOR SUBSTITUTION FOR THE CALAVO PARK PROJECT (DISTRICT: 4)

OVERVIEW

This Board Letter provides the results of a subcontractor substitution hearing convened to determine whether De la Fuente Construction (DLF), the prime contractor for the Calavo Park project under Contract No. 571951, has demonstrated adequate grounds to substitute Johnston Tractor, Inc. for the current subcontractor to carry out necessary grading work as part of the project and asks the Board to adopt the Hearing Officer's recommendation. The Hearing Officer found DLF has adequate grounds to affect the substitution. The Board of Supervisors (Board) may (1) ratify the Hearing Officer's determination and allow the substitution to proceed or (2) order a new hearing to consider the matter.

Under Public Contract Code (PCC) section 4107, when a prime contractor desires to substitute a new subcontractor to complete work initially assigned to a different subcontractor, the prime contractor must first seek the County's consent. The County is then required to inform the existing subcontractor of the request and, if the existing subcontractor objects, the County must hold a hearing to determine whether substantial evidence supports authorizing the substitution based on the criteria enumerated in PCC section 4107. After hearing evidence from both parties, the Hearing Officer makes a recommendation. Under PCC section 4114, the Board then has the option of ratifying the Hearing Officer's recommendation or ordering a new hearing to consider the matter.

The Department of Parks and Recreation informed the current subcontractor of DLF's request to substitute Johnston Tractor, Inc. for the current subcontractor on January 30, 2026. The current subcontractor objected to the substitution on February 5, 2026. A hearing on the matter was held on February 25, 2026. In Attachment A the Hearing Officer found, based on substantial evidence, the criteria under PCC section 4107(a)(3) and (7) are met and recommends approving the subcontractor substitution request.

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**RECOMMENDATION(S)
CHIEF ADMINISTRATIVE OFFICER**

1. Find that the proposed Board of Supervisors action is exempt from provisions of the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) and 15378(b)(5) of the State CEQA Guidelines
2. Approve the Hearing Officer's recommendation and allow DLF to proceed with substituting Johnston Tractor, Inc. for the current subcontractor under Contract No. 571951 for the Calavo Park project.

EQUITY IMPACT STATEMENT

The recommended action replaces a subcontractor on a significant County construction project at the conclusion of an unbiased process designed to protect the due process rights of the contractors involved. This supports the efficient implementation of a County project while ensuring fairness and justice in access to County contracting opportunities.

SUSTAINABILITY IMPACT STATEMENT

N/A

FISCAL IMPACT

There is no fiscal impact associated with this recommendation. There will be no change in net General Fund costs and no additional staff years.

BUSINESS IMPACT STATEMENT

The recommended action replaces a subcontractor exhibiting unsatisfactory performance on a significant County construction project at the conclusion of an unbiased process designed to protect the due process rights of the contractors involved. This helps ensure a continued level playing field for contractors seeking to do business with the County.

ADVISORY BOARD STATEMENT

N/A

BACKGROUND

Under Public Contract Code (PCC) section 4107, when a prime contractor desires to substitute a new subcontractor to complete work initially assigned to a different subcontractor, the prime contractor must first seek the County's consent. The County is then required to inform the existing subcontractor of the request and, if the existing subcontractor objects, the County must hold a hearing to determine whether substantial evidence supports authorizing the substitution based on the criteria enumerated in PCC section 4107. After hearing evidence from both parties, the Hearing Officer makes a recommendation. Under PCC section 4114, the Board then has the option of (1) ratifying the Hearing Officer's recommendation or (2) ordering a new hearing to consider the matter.

The Department of Parks and Recreation informed the current subcontractor of DLF's request to substitute Johnston Tractor, Inc., a small local business enterprise (SLBE), for the current subcontractor on January 30, 2026. The current subcontractor objected to the substitution on

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February 5, 2026. Both parties submitted written arguments and the documentary evidence listed in Attachment B, and a hearing on the matter was held on February 25, 2026. Over the course of two hours, both sides presented their evidence, including sworn witness testimony. DLF presented two witnesses and the current subcontractor presented one witness. After considering the evidence submitted, the Hearing Officer found, based on substantial evidence, the criteria under Public Contract Code section 4107(a)(3) (subcontractor fails to perform his subcontract) and section 4107(a)(7) (work performed by the subcontractor is substantially unsatisfactory and not in substantial accordance with plans and specifications, or that subcontractor is substantially delaying or disrupting the progress of the work) are met. In Attachment A the Hearing Officer recommends approving the subcontractor substitution request.

ENVIRONMENTAL STATEMENT

Sections 15061(b)(3) and 15378(b)(5) of the CEQA Guidelines provide that administrative activities of governments will not result in a direct or indirect physical change in the environment and that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. CEQA review was completed in connection with the approval of the Calavo Park Project. The proposed action does not change any aspect of the project itself, only the company engaged in one of the subcontracts. Therefore, the proposed action is not subject to CEQA review pursuant to Sections 15061(b)(3) and 15378(b)(5) of the CEQA Guidelines.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today's proposed action to authorize a subcontractor substitution on the Calavo Park project supports the continued execution of the project and thereby supports the Sustainability and Community Strategic Initiatives in the County of San Diego's 2026-2031 Strategic Plan by fostering an environment where residents engage in recreational interests by enjoying parks, open spaces, outdoor experiences, and civic activities that enrich their quality of life and contribute to building a region that is thriving.

Respectfully submitted,



DAHVIA LYNCH
Deputy Chief Administrative Officer

ATTACHMENT(S)

- Attachment A – Hearing Officer Recommendation
- Attachment B – Compendium of Exhibits