

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: Chief Executive Office

BOARD AGENDA # *B-5

Urgent Routine *opt*
CEO Concurs with Recommendation YES NO
(Information Attached)

AGENDA DATE September 25, 2012

4/5 Vote Required YES NO

SUBJECT:

Approval of Barham, Inc.'s Substitution of the Mechanical Subcontractor and Insulation Subcontractor for the Construction of the Strategic Business Technology Center Server Room Improvement Project

STAFF RECOMMENDATIONS:

1. Approve Barham, Inc.'s substitution of the mechanical subcontractor for the construction of the Strategic Business Technology Center Server Room Improvement Project at 3705 Oakdale Road.
2. Approve Barham, Inc.'s substitution of the insulation subcontractor for the construction of the Strategic Business Technology Center Server Room Improvement Project at 3705 Oakdale Road.

FISCAL IMPACT:

On July 17, 2012, the Board of Supervisors approved to award a construction contract for Bid Package 3 to Barham, Inc. of Ceres, California for the construction of the Strategic Business Technology Center Server Room Improvement Project located at the Stanislaus Regional 911 Center to Barham, Inc. of Ceres, California for the lump sum amount not to exceed \$687,251.

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2012-492

On motion of Supervisor Monteith, Seconded by Supervisor Withrow

and approved by the following vote,

Ayes: Supervisors: Chiesa, Withrow, Monteith, De Martini and Chairman O'Brien

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) _____ Denied

3) _____ Approved as amended

4) _____ Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

FISCAL IMPACT: (CONTINUED)

At that time, the Board of Supervisors approved a total project budget of \$1,859,898 as outlined in the sources and uses chart below:

SBT Data Center Sources		<i>Uses Approved 7-17-12</i>
Strategic Business Technology Fund Balance		\$889,342
Chief Executive Office Plant Acquisition		\$191,929
Criminal Justice Facilities Fund		\$231,000
Public Facility Fees		\$547,627
Total		\$1,859,898

SBT Data Center		<i>Sources Approved 7-17-12</i>
Salaries: Project Management		\$131,667
Services and Supplies		\$52,392
Architectural Design Services		\$166,280
Cost Applied Charges		\$5,224
Construction Contractor, Data Communications, Design Contingency		\$959,788
Generator Purchase		\$250,962
Server Room Equipment and Components		\$293,585
Total Estimated Uses		\$1,859,898

At this time, the Project Manager is returning to the Board of Supervisors to approve Barham's request for substitutions of the mechanical subcontractor and insulation subcontractor for the construction of the Strategic Business Technology Center Server Room Improvement Project at 3705 Oakdale Road. There is no additional impact to the General Fund associated with this request. These substitutions will be funded by existing appropriations in the Capital Project budget previously approved by the Board on July 17, 2012.

DISCUSSION:

The Strategic Business Technology Department maintains a data center that houses the core County Information Technology systems, such as the County website, Oracle Financial Management System and PeopleSoft Human Resource Management System. In addition to enterprise systems, the County SBT Data Center houses many of the County departments' servers. Due to continued growth, the current facility is at capacity and can no longer provide space for additional servers or network infrastructure equipment.

On March 20, 2012, the Board of Supervisors approved the redesigned plans and specifications for the Strategic Business Technology (SBT) Data Center Server Room improvements at 3705 Oakdale Road, authorized the Project Manager to issue a notice inviting bids for Bid Package 3 for the construction of the project, and to open and evaluate bids and return to the Board to recommend a construction contract award to

the lowest responsible bidder. The redesigned plan recommends a structure that is self-contained with its own cooling system, electrical systems, environmental remote monitoring, fire suppression, and uninterrupted power supply.

The redesign will replace the existing back up emergency generator with a more powerful and efficient back-up emergency generator that will provide power to both SR911 and the SBT Data Center. A back-up generator will minimize any chance of disruption, it will allow business to function in the midst of a power failure, power will be provided to heating, ventilation, and air conditioning (HVAC) system, and will ensure continued operations for missions critical systems.

The project will include the installation of a second back-up dry fire suppression tank for increased reliability, and Americans with Disability Act (ADA) upgrades to the parking lot to meet ADA requirements.

On July 17, 2012, the Board of Supervisors awarded the construction contract for Bid Package 3 to Barham, Inc. of Ceres, California for the construction of the Strategic Business Technology Center Server Room Improvement Project located at the Stanislaus Regional 911 Center to Barham, Inc. of Ceres, California for the lump sum amount not to exceed \$687,251.

Next Recommended Actions

By law, Public Contract Code Section 4100 – 4113, Barham, Inc. was required to list the name of each subcontractor who would perform the work or labor in excess of one-half of one percent of the base bid.

The County may legally consent to a substitution of a listed subcontractor only in limited cases. One of the limited cases is when the subcontractor listed in the bid, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract for the scope of work specified in the subcontractor's bid and at the price specified in the subcontractor's bid.

Barham, Inc. has informed the Project Manager and Construction Manager that their listed mechanical subcontractor Virginia Mechanical, Inc. of Tracy, California, failed or refused to execute their subcontract. On August 31, 2012, the Construction Manager notified Virginia Mechanical, Inc. by certified mail and facsimile of Barham's request to substitute. In accordance with Public Contract Code Section 4107, the Project Manager allowed Virginia Mechanical, Inc. five (5) working days to provide written objection to the requested substitution and informed Virginia Mechanical that failure to transmit written objections within five (5) working days (by 5:00 p.m. on September 10, 2012) constitutes Virginia Mechanical's consent to the substitution. No written objections were received and now it is appropriate and necessary to consider Virginia Mechanical's failure to submit written objections as consent to the substitution as allowed by Section 4107. Copies of the correspondence are attached.

Approval of Barham, Inc.'s Substitution of the Mechanical Subcontractor and Insulation Subcontractor for the Construction of the Strategic Business Technology Center Server Room Improvement Project
Page 4

Additionally, Barham, Inc. has informed the Project Manager and Construction Manager that their listed insulation subcontractor Hoffman Insulation, Inc. of Turlock, California, failed or refused to execute their subcontract. On September 10, 2012, the Construction Manager notified Hoffman Insulation, Inc. by certified mail and facsimile of Barham's request to substitute. In accordance with Public Contract Code Section 4107, the Project Manager allowed Hoffman Insulation, Inc. five (5) working days to provide written objection to the requested substitution and informed Hoffman Insulation that failure to transmit written objections within five (5) working days (by 5:00 p.m. on September 17, 2012) constitutes Hoffman Insulation's consent to the substitution. No written objections were received and now it is appropriate and necessary to consider Hoffman Insulation's failure to submit written objections as consent to the substitution as allowed by Section 4107. Copies of the correspondence are attached.

At this time, the Project Manager is returning to the Board of Supervisors to approve Barham's substitution of the mechanical subcontractor of Dycus Heating and Air Conditioning in place of Virginia Mechanical, Inc. Additionally, the Project Manager requests approval of Barham's request to self-perform the insulation work in place of Hoffman Insulation, Inc. for the construction of the Strategic Business Technology Center Server Room Improvement Project at 3705 Oakdale Road. There is no additional impact to the General Fund associated with this request. These substitutions will be funded by existing appropriations in the Capital Project budget previously approved by the Board on July 17, 2012.

Schedule

The expected construction duration is six months, with completion expected in the Winter 2012-2013.

STAFFING IMPACT:

There is no additional staffing impact associated with this item. Existing Capital Projects staff will manage the project.

POLICY ISSUES:

The Board of Supervisors is required to approve any substitution of listed subcontractors, pursuant to the Public Contract Code.

CONTACT INFORMATION:

Patricia Hill Thomas. Chief Operations Officer. 209-525-6333



CHIEF EXECUTIVE OFFICE

Monica Nino
Chief Executive Officer

Patricia Hill Thomas
Chief Operations Officer/
Assistant Executive Officer

Stan Risen
Assistant Executive Officer

Keith D. Boggs
Assistant Executive Officer

1010 10th Street, Suite 6800, Modesto, CA 95354
Post Office Box 3404, Modesto, CA 95353-3404

Phone: 209.525.6333 Fax 209.544.6226

August 31, 2012

Barry Skelton
Virginia Mechanical, Inc.
793 S. Tracy Blvd. #187
Tracy, CA 95376

**Via Certified/Return Receipt Mail and Fax 209-832-2785

Subject: SBT Server Room Project
Reference: Request for Substitution for Virginia Mechanical, Inc.

Dear Mr. Skelton:

Stanislaus County's Board of Supervisors awarded a contract to Barham, Inc. dba BC Construction for the construction of the SBT Server Room Project on July 17, 2012. Virginia Mechanical, Inc. was listed as a subcontractor in the bid BC Construction submitted to Stanislaus County on April 18, 2012.

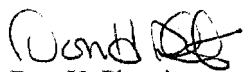
Attached is a copy of correspondence from BC Construction dated August 31, 2012. BC Construction is requesting a substitution for Virginia Mechanical, Inc. BC Construction has cited Section 4107.1 of the California Public Contract Code as the cause for substitution, which lists as a justification for substitution the following:

“(1) When the subcontractor listed in the bid, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract for the scope of work specified in the subcontractor's bid and at the price specified in the subcontractor's bid, when that written contract, based upon the general terms, conditions, plans, and specifications for the project involved or the terms of that subcontractor's written bid, is presented to the subcontractor by the prime contractor.”

Please consider this letter to be the required written notification pursuant to Section 4107 of the California Public Contract Code, of BC Construction's request to substitute a different subcontractor for Virginia Mechanical, Inc. on the SBT Server Room Project. In accordance with Section 4107 of the California Public Contract Code, Virginia Mechanical, Inc. has until 5:00 PM on September 10, 2012 (five working days) to provide written objections to the requested substitution. Failure to transmit written objections constitutes Virginia Mechanical's consent to the substitution.

Sincerely,

County of Stanislaus


Don H. Phemister
Senior Construction Manager

Enclosure

cc: Patricia Hill Thomas – Chief Operations Officer / Assistant Executive Officer
Miguel Zamora – BC Construction

File AY 2.1.1(192)

File DY 23.1



CONSTRUCTION
GENERAL CONTRACTOR

31 August 2012

Mr. Don Phemister
Stanislaus County Capital Projects
1010th Street, Suite 6800
Modesto, CA 95354

Project: SBT Server Room Improvements
3705 Oakdale Road
Modesto, CA 95357

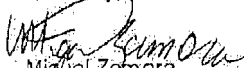
Subject: Substitution of Subcontractor

Dear Don,

This letter is written to formally request approval for substituting Virginia Mechanical, Inc; which we listed in our original proposal; with Dycus Heating and Air Conditioning. When we asked our subcontractors if they could hold their price a few weeks ago, we were informed by Virginia Mechanical, Inc that they could hold their price as quoted. However, after we issued their contract to them at their original amount; they refused to sign our contract and have indicated that they cannot sign our contract without an increase to their bid amount, please see attached.

Your prompt attention to this matter is required and greatly appreciated. Please do not hesitate to call me at 209-531-1252 if you have any questions or comments in this regard.

Sincerely,


Miguel Zamora
President

Attachement – Virginia Mechanical, Inc



**Via Certified/Return Receipt Mail and Fax 209-216-0114

Bruce Hoffman
PO Box 1868
Turlock, CA 95381

Subject: SBT Server Room Project
Reference: Request for Substitution for Hoffman Insulation, Inc.

Dear Mr. Hoffman:

Stanislaus County's Board of Supervisors awarded a contract to Barham, Inc. dba BC Construction for the construction of the SBT Server Room Project on July 17, 2012. Hoffman Insulation, Inc. was listed as a subcontractor in the bid BC Construction submitted to Stanislaus County on April 18, 2012.

Attached is a copy of correspondence from BC Construction dated September 6, 2012. BC Construction is requesting a substitution for Hoffman Insulation, Inc. BC Construction has cited Section 4107.1 of the California Public Contract Code as the grounds for substitution, which lists as a justification for substitution the following:

“(1) When the subcontractor listed in the bid, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract for the scope of work specified in the subcontractor's bid and at the price specified in the subcontractor's bid, when that written contract, based upon the general terms, conditions, plans, and specifications for the project involved or the terms of that subcontractor's written bid, is presented to the subcontractor by the prime contractor.”

Please consider this letter to be the required written notification pursuant to Section 4107 of the California Public Contract Code, of BC Construction's request to substitute BC Construction for Hoffman Insulation, Inc. on the SBT Server Room Project. In accordance with Section 4107 of the California Public Contract Code, Hoffman Insulation, Inc. has until 5:00 PM on September 19, 2012 (five working days) to provide written objections to the requested substitution. Failure to transmit written objections constitutes Hoffman Insulation's consent to the substitution.

Sincerely,

County of Stanislaus

Don H. Phemister
Senior Construction Manager

Enclosure

cc: Patricia Hill Thomas – Chief Operations Officer / Assistant Executive Officer
Miguel Zamora – BC Construction

File AY 2.1.1(204)

File DY 23.2



CONSTRUCTION
GENERAL CONTRACTOR

6 September 2012

Mr. Don Phemister
Stanislaus County Capital Projects
1010th Street, Suite 6800
Modesto, CA 95354

Project: SBT Server Room Improvements
3705 Oakdale Road
Modesto, CA 95357

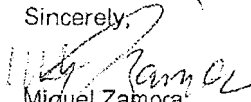
Subject: Substitution of Subcontractor

Dear Don,

This letter is written to formally request approval for substituting Hoffman Insulation, Inc; which we listed in our original proposal; with self performing the insulation. Bruce at Hoffman Insulation has indicated that they cannot complete this project at this time, please see attached.

Your prompt attention to this matter is required and greatly appreciated. Please do not hesitate to call me at 209-531-1252 if you have any questions or comments in this regard.

Sincerely,


Miguel Zamora
President

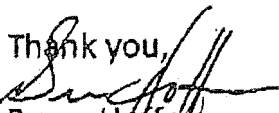
HOFFMAN INSULATION, INC.

PO Box 1868 • Turlock, CA 95381
Phone: (209) 216-0110 • Fax (209) 216-0114
Lic. #856479

8/30/2012

Dear BC Construction

Unfortunately due to unforeseen circumstances we will not be able to perform on the S.B.T. Server Room T.I. located at 3705 Oakdale Road, Modesto, CA.

Thank you,

Bruce Hoffman

President/ CEO