

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

DEPT: Chief Executive Office

BOARD AGENDA # *B-6

Urgent Routine

AGENDA DATE December 4, 2012

CEO Concurs with Recommendation YES NO
(Information Attached)

4/5 Vote Required YES NO

SUBJECT:

Approval of Diede Construction, Inc.'s Substitution of the Casework and Glazing Subcontractors for the Construction of the Honor Farm Jail Bed Replacement Project at the Public Safety Center

STAFF RECOMMENDATIONS:

1. Approve Diede Construction, Inc.'s substitution of the casework subcontractor for the construction of the Honor Farm Jail Bed Replacement Project at the Public Safety Center.
2. Approve Diede Construction, Inc.'s substitution of the glazing subcontractor for the construction of the Honor Farm Jail Bed Replacement Project at the Public Safety Center.

FISCAL IMPACT:

On July 17, 2012, the Board of Supervisors awarded the construction contract for the Honor Farm Jail Bed Replacement Project to Diede Construction, Inc. of Lodi, California for the construction of 192 jail beds located at the Stanislaus County Public Safety Center for the lump sum amount not to exceed \$8,582,685.

(Continued on Page 2)

BOARD ACTION AS FOLLOWS:

No. 2012-583

On motion of Supervisor Withrow, Seconded by Supervisor Monteith

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) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

FISCAL IMPACT: (CONTINUED)

At that time, the Board of Supervisors approved a total project budget of \$11,999,297 from insurance proceeds as outlined in the sources and uses chart below:

Honor Farm Jail Bed Replacement Project		Sources Approved July 17, 2012
Insurance Proceeds		\$11,999,297
Total		\$11,999,297
Honor Farm Jail Bed Replacement Project		Uses Approved July 17, 2012
Salaries and Wages (Administration, Construction Management Services, Sheriff Transition Sergeant and Transition Staff)		\$624,400
Services and Supplies (Code Required Testing, Legal Services, Emergency Power Design Consultant, Geotechnical Services, Building Permits, Utility Connections, Publication and Legal Notices, Printing, Postage, Office Supplies)		\$678,369
Architectural Services		\$966,000
Other Charges Government Fund		\$19,574
Structures and Improvements (Construction Contract, Generator Farm Improvements, Landscaping)		\$9,710,954
Total		\$11,999,297

The Project Manager is returning to the Board of Supervisors to seek approval of Diede Constructions request for the substitution of both the casework and glazing subcontractors for the construction of the Honor Farm Jail Bed Replacement Project at the Public Safety Center. There is no additional impact to the Project Budget as a result of these recommended actions as the Contractor is responsible for any cost difference as a result of the substitution.

DISCUSSION:

The fire that destroyed Honor Farm Barracks 1 and 2 created a significant challenge to provide jail beds to house inmates in Stanislaus County. On July 13, 2010, the Board of Supervisors authorized the Chief Executive Officer to contract for professional architectural design services with Lionakis of Sacramento, California to assist the County with evaluating replacement options at both the Honor Farm and the County's Public Safety Center (PSC).

The Stanislaus County Men's Honor Farm, located at 8224 West Grayson Road, Modesto, California, was originally constructed in the late 1950's with (3) 86-bed housing units and (1) 112-bed housing unit and is one of three (3) detention facilities managed by the Sheriff's Department. The classification type of the inmate housed at the Honor Farm has changed significantly over the past fifty years.

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On December 6, 2012, the Board of Supervisors accepted the schematic design as prepared by Lionakis, and authorized the project team working with the design team to complete the design for construction of a replacement facility. At that time, the Board of Supervisors also authorized the Project Manager to issue a Request for Statement of Qualifications (RFSOQ) for the Pre-Qualification of general contractors for construction of a replacement facility, and directed staff to return for future consideration.

On May 15, 2012, the Board of Supervisors approved the plans and specifications for the 192 bed Honor Farm Jail Bed Replacement Project. The proposed project, as designed and approved through the construction document phase, will consist of a multi-tiered building constructed directly south of the existing minimum-security housing facility on the site of the Public Safety Center. Included will be site improvements, such as a continuation of the perimeter security fencing, new vehicular and pedestrian gates incorporated into the secure fencing, utility extensions and two outdoor recreation areas. Although the primary goal of this project is to provide a safe and secure jail-housing facility, it should also provide an environment that supports the operational requirements of the Sheriff's Department and facilitates the ability to provide programs for the inmates while detained.

On July 17, 2012, the Board of Supervisors awarded the construction contract to Diede Construction, Inc. of Lodi, California for the construction of the 192 jail bed Honor Farm Jail Bed Replacement Project located at the Stanislaus County Public Safety Center in lump sum amount not to exceed \$8,582,685. The project is currently under construction.

Next Recommended Actions

By law, Public Contract Code Section 4100 – 4113, Diede Construction, 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.

Diede Construction, Inc. has informed the Project Manager and Construction Manager that their listed casework subcontractor, Patterson & Wilson, Inc., DBA Ashland Glass & Millwork of Central Point, Oregon, failed or refused to execute their subcontract. On September 21, 2012, the Construction Manager notified Patterson & Wilson, Inc. by certified mail and facsimile of Diede's request to substitute. In accordance with Public Contract Code Section 4107, the Project Manager allowed Patterson & Wilson, Inc. five (5) working days to provide written objection to the requested substitution and informed

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Patterson & Wilson, Inc. that failure to transmit written objections within five (5) working days (by 5:00 p.m. on September 28, 2012) constitutes Patterson & Wilson, Inc.'s consent to the substitution. No written objections were received and now it is appropriate and necessary to consider Patterson & Wilson's failure to submit written objections as consent to the substitution as allowed by Section 4107. Copies of the correspondence are attached.

Additionally, Diede Construction, Inc. has informed the Project Manager and Construction Manager that their listed glazing subcontractor, McCumber's Glass, Inc. of Marysville, California, failed or refused to execute their subcontract. On September 28, 2012, the Construction Manager notified McCumber's Glass, Inc. by certified mail and facsimile of Diede's request to substitute. In accordance with Public Contract Code Section 4107, the Project Manager allowed McCumber's Glass, Inc. five (5) working days to provide written objection to the requested substitution and informed McCumber's Glass, Inc. that failure to transmit written objections within five (5) working days (by 5:00 p.m. on October 5, 2012) constitutes McCumber's Glass's consent to the substitution. No written objections were received and now it is appropriate and necessary to consider McCumber's Glass'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 Diede Construction's substitution of the casework subcontractor to Westmark Products, Inc. of San Jose, California.

The Project Manager is also requesting the Board of Supervisors approve Diede Construction's substitution of the glazing subcontractor to Norment Security Group, Inc. of Montgomery, Alabama. Norment Security Group, Inc. also operates a west coast regional office in Tracy, California which provides sales, service and maintenance

Schedule

The expected construction duration is expected in late Summer 2013 and will not be altered as a result of this glazing subcontractor substitution.

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 California Public Contract Code.

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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

September 28, 2012

Louis McCumber
McCumber's Glass Inc.
802 #D Yuba Street
Marysville, CA 95901

****Via Certified/Return Receipt Mail and Facsimile 530-740-1393**

Subject: Honor Farm Bed Replacement Project
Reference: Request for Substitution

Dear Mr. McCumber:

Stanislaus County's Board of Supervisors awarded a contract to Diede Construction, Inc. for the construction of the Honor Farm Bed Replacement Project on July 17, 2012. McCumber's Glass was listed as a subcontractor in the bid Diede submitted to Stanislaus County on June 27, 2012.

Diede is requesting a substitution of McCumber's Glass per Section 4107.1 of the California Public Contract Code, 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 Diede's request to substitute a different subcontractor(s) for McCumber's Glass on the Honor Farm Bed Replacement Project. In accordance with Section 4107 of the California Public Contract Code, McCumber's Glass has until 5:00 PM on October 5, 2012 (five working days) to provide written objections to the requested substitution. Failure to transmit written objections constitutes McCumber's Glass' consent to the substitution.

Sincerely,

Don H. Phemister
Senior Construction Manager

cc: Patricia Hill Thomas, Chief Operations Officer / Assistant Executive Officer
Paul Bickford, Diede Construction
File AA 2.1.1 (182)
File DA 2.4



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

September 21, 2012

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

Phone: 209 525 6333 Fax 209 544 6226

Craig A. Wilson
Patterson & Wilson, Inc.
dba Ashland Glass & Millwork and Rogue Valley Countertops
PO Box 3098
Central Point, OR 97502

****Via Certified/Return Receipt Mail and Facsimile 541-664-2737**

Subject: Honor Farm Bed Replacement Project
Reference: Request for Substitution

Dear Mr. Wilson:

Stanislaus County's Board of Supervisors awarded a contract to Diede Construction, Inc. for the construction of the Honor Farm Bed Replacement Project on July 17, 2012. Patterson & Wilson, Inc. dba Ashland Glass & Millwork and Rogue Valley Countertops was listed as a subcontractor in the bid Diede submitted to Stanislaus County on June 27, 2012.

Diede is requesting a substitution of Ashland Glass & Millwork and Rogue Valley Countertops per Section 4107.1 of the California Public Contract Code, which lists as a justification for substitution the following:

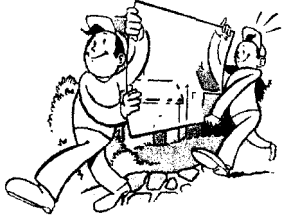
"(1) When the subcontractor listed in the bid, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract for the scope of work specified in the subcontractor's bid and at the price specified in the subcontractor's bid, when that written contract, based upon the 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 Diede's request to substitute a different subcontractor for Ashland Glass & Millwork and Rogue Valley Countertops on the Honor Farm Bed Replacement Project. In accordance with Section 4107 of the California Public Contract Code, Ashland Glass & Millwork and Rogue Valley Countertops has until 5:00 PM on September 28, 2012 (five working days) to provide written objections to the requested substitution. Failure to transmit written objections constitutes Ashland Glass & Millwork and Rogue Valley Countertops' consent to the substitution.

Sincerely,

Don H. Phemister
Senior Construction Manager

cc: Patricia Hill Thomas, Chief Operations Officer / Assistant Executive Officer
Paul Bickford, Diede Construction
File AA 2.1.1(179)
File DA 2.4



McCumber's Glass Inc.

802 #D Yuba Street, Marysville CA 95901

Phone: 530-740-1386 Fax: 530-740-1393

Lic# 954492

Glass is what we sell, customer service is our business for over 42 years

September 17, 2012

Diede Construction, Inc.
PO Box 1007
Woodbridge, CA 95258

Project: Letter of Withdrawal for the project of :
Honor Farm Bed Replacement at the PSC
200 E Hackett Road, Modesto, CA

Due to a clerical error on the part of McCumber's Glass Inc. for the Honor Farm Bed Replacement we cannot furnish material and labor on this project due to a misinterpretation from the glass supplier manufacture. Our bid was short to the sum of \$140K (our cost).

We are very sorry that this has occurred.

Thank you

A handwritten signature in cursive script that reads "Louis McCumber". The signature is written in black ink and is positioned above the printed name and title.

Louis McCumber
President

Patterson & Wilson, Inc.

dba Ashland Glass & Millwork and Rogue Valley Countertops

P O Box 3098 - Central Point, Oregon 97502

Phone (541)664-5557
Fax (541)664-2737

OR Lic. # 34233 CA Lic. # 473555 & 854089
WA Lic. # ROGUEVC958Q9

September 18, 2012

Diède Construction, Inc.
PO Box 1007
Woodbridge CA 95258

RE: Honor Farm Replacement Project

To whom it may concern:

Effective August 9, 2012 Patterson & Wilson Inc., DBA: Ashland Glass & Millwork closed its doors one last time and is no longer in business. Our bid in the amount of \$55,743 is withdrawn and the subcontract between Diède Construction, Inc. and Ashland Glass & Millwork is considered null and void.

Sincerely,



Craig A. Wilson
President
Ashland Glass & Millwork
PO Box 3098
Central Point OR 97502