

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

DEPT: Chief Executive Office

BOARD AGENDA # *B-9

Urgent

Routine

CEO Concurs with Recommendation YES NO
(Information Attached)

AGENDA DATE January 29, 2013

4/5 Vote Required YES NO

SUBJECT:

Approval of Substitution of Electrical Subcontractor for Diede Construction, Inc. for the Construction of the Honor Farm Jail Bed Replacement Project

STAFF RECOMMENDATIONS:

Approve the substitution of electrical subcontractor for Diede Construction, Inc. for the construction of the Honor Farm Jail Bed Replacement Project.

FISCAL IMPACT:

On July 17, 2012, the Board of Supervisors approved the award of a construction contract for the construction of the Honor Farm Jail Bed Replacement Project to Diede Construction, Inc. of Lodi, California for the lump sum amount not to exceed \$8,582,685.

Continued on Page 2

BOARD ACTION AS FOLLOWS:

No. 2013-44

On motion of Supervisor Withrow, Seconded by Supervisor Monteith
and approved by the following vote,

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

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 this time, the Project Manager is returning to the Board of Supervisors to seek approval of the substitution of the electrical subcontractor for Diede Construction, Inc. for the construction of the Honor Farm Jail Bed Replacement Project. There is no additional impact to the General Fund associated with this request. The substitution will be funded by existing appropriations in the Capital Project budget previously approved by the Board on July 17, 2012.

DISCUSSION:

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 approved to award a construction contract for Bid Package 1 to Diede Construction, Inc. of Lodi, California for the construction of the Honor Farm Jail Bed Replacement Project, for the lump sum amount not to exceed \$8,582,685.

Next Recommended Actions

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

Public Contract Code Section 4107(a)(3) authorizes a County to consent to the substitution of a listed subcontractor when the listed subcontractor fails or refuses to perform his or her subcontract.

Diede Construction, Inc. has informed the Project Manager and Construction Manager that its listed electrical subcontractor, LML Enterprises, Inc. of Livermore, California, failed or refused to perform their subcontract and has provided Diede with a letter requesting to withdraw from the Project due to Union and financial issues, a copy of which is attached. On January 22, 2013, the Project Manager notified LML Enterprises, Inc. via certified mail of Diede Construction's request to substitute. In accordance with

Approval of Substitution of Electrical Subcontractor for Diede Construction, Inc. for the Construction of the Honor Farm Jail Bed Replacement Project
Page 3

Public Contract Code Section 4107, the Project Manager allowed LML Enterprises five (5) working days to provide written objection to the requested substitution.

On January 24, 2013, LML Enterprises, Inc. sent a letter to the Project Manager stating that LML Enterprises does not protest Diede Construction's substitution on the Honor Farm Jail Bed Replacement Project. Copies of the correspondence are attached.

At this time, the Project Manager is returning to the Board of Supervisors to seek approval of the substitution of B&H Electric in the place of LML Enterprises as the electrical subcontractor for Diede Construction, Inc. for the construction of the Honor Farm Jail Bed Replacement Project. There is no additional impact to the General Fund associated with this request. The substitution will be funded by existing appropriations in the Capital Project budget previously approved by the Board on July 17, 2012.

POLICY ISSUES:

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

STAFFING IMPACT:

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

CONTACT INFORMATION:

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

LML Enterprises Inc.
DVBE-SB Certified / CLSB 958520
4361 Technology Dr. #D
Livermore, CA 94551
Ph.: 925.290.1890 – Fax: 925.290.1861
info@lmlenterprises.com



1/24/13

Diede Construction, Inc.
P.O. Box 1007
Woodbridge, CA 95258

209.371.8842
209.371.8942

Attn: Paul Bickford

Re: Letter of no protest for the replacement of LML Enterprises, Inc. for the electrical work for the Honor Farm Project.

Paul,

Due to issues with the Union and our financial abilities to satisfy them, we respectfully need to withdraw from performing the electrical work for the Modesto Honor Farm and surrender our subcontract in order to allow Diede Construction to obtain another contractor and to continue without hindrance and to be able to complete the project on schedule. We take no exception to Diede replacing LML Enterprises, Inc. to perform the remaining electrical work for the Honor Farm project.

We apologize for any inconvenience this may cause but feel it is better to do this now than at a later time where it may impact the completion of the project more.

Sincerely,

Sean Lyons
President, LML Enterprises, Inc.

A handwritten signature in black ink, appearing to be "SL", written over the typed name of Sean Lyons.



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

January 22, 2013

Sean Lyons
LML Enterprises, Inc.
4361 Technology Drive #D
Livermore, CA 94551

**Via Certified/Return Receipt Mail and Fax 925-290-1861

Subject: Honor Farm Bed Replacement Project
Reference: Request for Substitution for LML Enterprises, Inc.

Dear Mr. Lyons:

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. LML Enterprises, Inc. was listed as a subcontractor in the bid Diede Construction submitted to Stanislaus County on June 27, 2012.

Attached is a copy of correspondence from Diede Construction dated January 22, 2013. Diede Construction is requesting a substitution for LML Enterprises, Inc. Diede Construction has cited LML Enterprises' letter of withdrawal as its justification for the substitution.

Section 4107 of the California Public Contract Code allows for substitution when the justification for that substitution is as follows:

“(3) When the listed subcontractor fails or refuses to perform his or her subcontract.”

Please consider this letter to be the required written notification pursuant to Section 4107 of the California Public Contract Code, of Diede Construction's request to substitute a different subcontractor for LML Enterprises, Inc. on the Honor Farm Bed Replacement Project. In accordance with Section 4107 of the California Public Contract Code, LML Enterprises, Inc. has until 5:00 PM on January 29, 2013 (five working days) to provide written objections to the requested substitution. Failure to transmit written objections constitutes LML Enterprises' consent to the substitution.

Sincerely,
County of Stanislaus

Patricia Hill Thomas
Chief Operations Officer / Assistant Executive Officer

Enclosure

cc: Paul Bickford, Diede Construction
Randy Cavanagh, Construction Manager
File AA 2.1.1 File DA 2.2



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1-22-13

Randy Cavanagh
Stanislaus County Capital Projects
1010 10th Street Suite 6800
Modesto, CA 95354

RE: Electrical Subcontractor Replacement
Honor Farm Bed Replacement Project
200 Hacket Road, Modesto, CA

Randy,

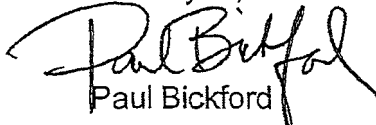
We have attached a Withdrawal Letter from LML Enterprises, the electrical subcontractor on the above project.

We have replaced them with B&H Electric to complete Division 26 Electrical, Division 27 Communications and Division 28 Electronic Safety and Security.

Their contact information is as follows:

B&H Electric, Inc.
1122 Black Diamond Way
Lodi, CA 95240
209-334-6770 Phone
209-334-1627 Fax
Contractor License #678435

Please contact us should you have any questions.

Thank you,

Paul Bickford

LML Enterprises Inc.
DVBE-SB Certified / CLSB 958520
4361 Technology Dr. #D
Livermore, CA 94551
Ph.: 925.290.1890 – Fax: 925.290.1861
info@lmlenterprises.com



1/21/13

Diede Construction, Inc.
P.O. Box 1007
Woodbridge, CA 95258

209.371.8842
209.371.8942

Attn: Paul Bickford

Re: Letter of Withdrawal form the Honor Farm Project.

Paul,

Due to issues with the Union and our financial abilities to satisfy them, we respectfully need to withdraw from performing the electrical work for the Modesto Honor Farm and surrender our subcontract in order to allow Diede Construction to obtain another contractor and to continue without hindrance and to be able to complete the project on schedule.

We apologize for any inconvenience this may cause but feel it is better to do this now than at a later time where it may impact the completion of the project more.

Sincerely,

A handwritten signature in black ink, appearing to be "SEAN LYONS", written over a horizontal dashed line.

Sean Lyons
President, LML Enterprises, Inc.