

**SUBMITTAL TO THE BOARD OF SUPERVISORS
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

029



FROM: Economic Development Agency

SUBMITTAL DATE:
 July 15, 2010

SUBJECT: Palm Desert Sheriff Station – Subcontractor Substitution Request by ASR Constructors

RECOMMENDED MOTION: That the Board of Supervisors approve the substitution of U.S. Glass and Glazing, Inc., in place of Glazcon Productions, Inc., as proposed by ASR Constructors, Inc., upon the recommendation of the Economic Development Agency (EDA) after a hearing pursuant to Resolution No. 2010-097.

BACKGROUND: On July 13, 2009, EDA (formerly known as Facilities Management) received a subcontractor substitution request letter from ASR Constructors, Inc. to request the substitution of the storefront and glazing subcontractor, Glazcon Productions, Inc., ASR Constructors is the general contractor for the Palm Desert Sheriff Station. The basis of this request, according to ASR Constructors, was pursuant to Public Contract Code 4107 (a)(1), failure to execute a written contract after a reasonable opportunity to do so. EDA notified Glazcon Productions of this request.

(Continued)

Lisa Brandl for
 Robert Field
 Assistant County Executive Officer/EDA
 By Lisa Brandl, Assistant Director

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2010/11

SOURCE OF FUNDS: Riverside County Palm Desert Finance Authority Bond Proceeds	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

BY: *Jennifer L. Sargent*
 County Executive Office Signature Jennifer L. Sargent

Dep't Recomm.:
 Per Exec. Ofc.:

Consent Policy

Consent Policy

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Benoit and duly carried, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Buster, Stone, Benoit and Ashley
 Nays: None
 Absent: Tavaglione
 Date: July 27, 2010
 xc: EDA

Kecia Harper-Ihem
 Clerk of the Board
 By: *Kecia Harper-Ihem*
 Deputy

BACKGROUND: (Continued)

On April 1, 2010, EDA received a written objection from Glazcon Productions to the substitution requested by ASR Constructors.

When objections to request for substitutions are filed, Public Contract Code 4107, requires a hearing be conducted by the awarding authority, or a designated officer, to determine whether consent to such substitution is appropriate. In accordance with Public Contract Code 4107 and 4114, a hearing was scheduled to hear the matter under Resolution No. 2010-097, which delegates the authority to the Assistant County Executive Officer/EDA (or designee Assistant Director) to hold such hearings.

EDA conducted a hearing with both ASR Constructors and Glazcon Productions on June 1, 2010. Based on all the evidence and testimony provided by both parties, the Agency determined the following:

1. ASR Constructors demonstrated they provided the subcontractor, Glazcon Productions, reasonable opportunity to enter into a contract based on the general terms, conditions, plans and specifications and for the scope and price specified in their sub-bid; and
2. Glazcon Productions failed to execute the contract based solely upon plans and specifications when Glazcon conditioned the contract with supplemental language which stated "In the event a conflict should arise between Description of Subcontractor's work, Project Documents and Glazcon Production's Proposal dated September 30, 2008, Proposal shall prevail."

Consent to the subcontractor substitution proposed by ASR Constructors was determined to be justified under the Public Contract Code. Pursuant to Public Contract Code Section 4114, the Board of Supervisors (Board) may adopt the recommendation by the agency without further notice or hearing, or may set the matter for a de novo hearing before the Board. Agency staff recommends that the Board of Directors consent to the subcontractor substitution proposed by ASR Constructors.