

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

251



FROM: Economic Development Agency

SUBMITTAL DATE:
September 16, 2010

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

RECOMMENDED MOTION: That the Board of Supervisors approve the substitution of Franklin Mechanical Systems, Inc., in place of Olympic Air 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 April 5, 2010, EDA received a subcontractor substitution request letter from ASR Constructors, Inc., to request the substitution of the Heating, Ventilation, and Air Conditioning (HVAC) subcontractor, Olympic Air. 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); (2), (3), and (7), failure to pay your employees is evidence that it is insolvent, breach of contract, delay, and disruption of the project. EDA notified Olympic Air of this request.

(Continued)

Robert Field
Assistant County Executive Officer/EDA

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

COMPANION ITEM ON BOARD OF DIRECTORS AGENDA: No

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

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Stone, seconded by Supervisor Buster 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: September 28, 2010
xc: EDA

Kecia Harper-Ihem
Clerk of the Board
By:
Deputy
3.27

Prev. Agn. Ref.: 3.24, 7/27/10; 3.48, 7/13/10 **District:** 4 **Agenda Number:**

FORM APPROVED COUNTY COUNSEL
BY:
MARSHAL VICTOR
DATE: 9-13-10
Departmental Concurrence

Dept't Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

BACKGROUND: (Continued)

On April 13, 2010, EDA received a written objection from Olympic Air 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 Olympic Air on July 28, 2010. Based on all the evidence and testimony provided by both parties, the Agency determined the following:

1. ASR Constructors contended that Olympic Air's management and field personnel failed to:
 - a. Meet project schedule dates
 - b. Pay vendors timely
 - c. Provide skilled manpower
 - d. Install their work per plan and industry standards, and
 - e. Make proper payments to the Internal Revenue Service (IRS) for project income
2. The project's construction manager confirmed that Olympic Air was not keeping up with the project schedule, manpower on site lacked adequate skill, and deficient work was found that needed to be reworked or replaced.

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 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.