

**SUBMITTAL TO THE BOARD OF COMMISSIONERS OF THE
HOUSING AUTHORITY
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

871



FROM: Housing Authority of the County of Riverside

SUBMITTAL DATE:
August 4, 2009

SUBJECT: Award of Construction Contract for the Renovation of the Dr. Clair S. Johnson Apartments Public Housing Development

RECOMMENDED MOTION: That the Board of Commissioners:

1. Approve the attached Construction Contract with W.E. O'Neil Construction Company of California in the amount of \$1,380,000.00 for the renovation of the Public Housing Development known as Dr. Clair S. Johnson Apartments, located at 91-400 Seventh St., Mecca, CA 91154;
2. Authorize the Chairman to execute the attached construction contract with W.E. O'Neil Construction, and;
3. Authorize the Executive Director or designee to take the necessary steps to implement the contract, including execution of necessary and related documents.

BACKGROUND: On March 24, 2009, the Board of Commissioners adopted Resolution 2009-02 which authorized the Executive Director or designee to accept \$975,488 in American Recovery and Reinvestment Act (ARRA) formula grant funds from the United States Department of Housing And Urban Development (HUD) for the Capital Fund program.

(continued)

Robert Field
Executive Director

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 1,380,000	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2009/2010

SOURCE OF FUNDS: Capital Fund Program and American Recovery and Reinvestment Act (ARRA) Formula Grant from the United States Department of Housing And Urban Development (HUD)	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/6 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

BY: Jennifer L. Sargent

County Executive Office Signature

FORM APPROVED COUNTY COUNSEL
BY: *LARISA R-MCKENNA*
DATE: 8/17/09
Departmental Concurrence

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

Prev. Agn. Ref.: 03/24/09,10.1; 05/12/09, 10.1 | District: 4 | Agenda Number: 10.1

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

10.1

BACKGROUND (continued):

The grant stipulates that funds are to be used to provide employment for construction workers by substantially modernizing public housing units and Public Housing Agencies shall give priority to projects that are 1) ready to begin construction within 120 days of grant award and 2) will increase energy efficiency and lower the long-term costs of operating public housing.

The Dr. Clair S. Johnson Apartments is a 40-unit three, four and five bedroom public housing development that meets the expediency, modernization, energy-efficiency and green requirements outlined in the grant. Upgrades include energy-efficient lighting, replacement of some grass area with drought-tolerant desert landscape, installation of tankless water heaters; energy-efficient appliances, replacement of sinks, faucets and cabinetry in the kitchen and bathrooms; trash enclosures, carports, children play area and outdoor furnished recreation area. Upon completion of the remodel, the Dr. Clair S. Johnson Apartments will be more cost-effective, energy-efficient and have several desirable amenities that are necessary for the long term viability and rental attractiveness of the community.

On May 12, 2009 the Board of Commissioners approved the Consulting Services Agreement with Escalante Architects in the amount of \$125,742.50 for design services. The Housing Authority advertised an Invitation to Bid for the Renovation of the Dr. Clair S. Johnson Apartments Public Housing Development with a closing date of July 13, 2009.

The five lowest responsive and responsible bids received are as follows:

- | | |
|---------------------------------------------------|-------------|
| 1. W.E. O'Neil Construction Company of California | \$1,380,000 |
| 2. Desert Ranger Construction | \$1,445,000 |
| 3. GHA SoSun | \$1,597,000 |
| 4. DW Johnson Construction, Inc. | \$1,758,000 |
| 5. Doug Wall Construction, Inc. | \$1,720,997 |

County Counsel reviewed and approved as to form the lowest bid submitted by W.E. O'Neil Construction Company of California is appropriate in form. Funding for this project is provided through the Department of Housing and Urban Development (HUD) Capital Fund Program and American Recovery and Reinvestment (ARRA) Grant Funds. Staff recommends award of the construction contract.



HOUSING AUTHORITY of the County of Riverside

AGREEMENT FORM CONSTRUCTION CONTRACT BETWEEN OWNER AND CONTRACTOR

The AGREEMENT made by and between the Housing Authority of the County of Riverside, 5555 Arlington Avenue, Riverside, CA 92504, a body corporate and politic, hereinafter referred to as the "Local Authority" or the "Owner", and **W.E. O'Neil Construction Company of California, 909 N. Sepulveda Blvd., Suite 400, El Segundo, CA 90245** hereinafter referred to as the "Contractor."

WITNESSED that the Owner and the Contractor, for the consideration stated herein, mutually agree as follows:

- A The Local Authority is the owner of those certain real properties, located in the County of Riverside, commonly known as the **Dr. Clair S. Johnson Apartment 91-400 Seventh Street, Mecca, CA 92254**, hereinafter referred to as the "Property."
- B. The term "Work," includes performance, as set forth in the Contract Documents by the Contractor, of all work or improvements on, in and about the property.
- C. Owner desires the Contractor to perform the Work on the terms and conditions hereinafter set forth, and Contractor agrees to perform said Work on the terms and conditions set forth below.

ARTICLE 1

THE CONSTRUCTION CONTRACT

1.1 The "Construction Contract" means and includes all of the "Contract Documents." The Contract Documents which form the Construction Contract are incorporated herein by this reference and are made a part of this Construction Contract as if fully set forth herein. The Contract Documents consist of the following component parts:

1. Invitation for Bids
2. Instructions to Bidders (HUD-5369)
3. Representations, Certifications, and Other Statements of Bidders (HUD-5369-A)
4. Bid Proposal
 - a. The Bid
 - b. The Bid Bond
 - c. Non-collusive Affidavit
 - d. Designation of Subcontractors

5. Performance and Payment Bonds
6. Davis-Bacon Prevailing Wage Decision No. **CA080028, Modification No. 25**
7. General Conditions of the Contract (HUD-5370)
8. Special Conditions
9. This Construction Contract
10. Drawings/photographs
11. Specifications
12. Section 3 Certification
13. Hold Harmless

ARTICLE 2

STATEMENT OF WORK

2.1 Contractor shall furnish all labor, material, equipment and services and perform and complete all work required for the project identified as **Dr. Clair S. Johnson Apartments, 91-400 Seventh Street, Mecca, CA 92254** for the Housing Authority of the County of Riverside.

All such work shall be in strict accordance with the Specifications and Addenda thereto and the Drawings included therein, all as prepared by the Housing Authority of the County of Riverside, which said Specifications and Drawings are incorporated herein by reference and made a part hereof.

2.2 Data provided in the Specifications and Drawings are believed to actually depict the conditions to be encountered by the Contractor, but Owner does not guarantee such data as being all-inclusive or complete in any respect. Nothing contained herein shall relieve Contractor from making any and all investigations he/she may deem necessary to apprise him/herself of the work. Contractor hereby accepts the location of the Project in an "as is" condition and herein warrants that all such investigations have been performed by him/her, and hereby expressly waives any and all rights under this Construction Contract, or in law, to additional compensation and/or time adjustments for alleged unknown subsurface and/or latent conditions.

ARTICLE 3

TIME OF COMMENCEMENT AND COMPLETION

3.1 The work to be performed under this Construction Contract shall commence within ten (10) days after a Notice to Proceed is received by the Contractor, or on the date specified in the Notice, whichever is later, and shall be completed within **one hundred twenty (120) working days** following the date of said Notice to Proceed.

ARTICLE 4

CONTRACT SUM

4.1 The Owner shall pay the Contractor for the performance of the contract, subject to the additions and deductions by Change Order(s) as provided in the Contract Documents, in current funds, the sum **One Million Three Hundred Eighty Thousand dollars (\$1,380,000)**

All contracts for construction, alteration, repair and painting, in excess of \$2000, in which federal funds are used, shall be subject to Davis-Bacon prevailing wage laws. Contractor

represents and warrants that he/she shall pay his/her employees and all individuals performing work, not less than the prescribed prevailing wage rate by the U.S. Department of Labor or the California State Department of Industrial Relations, whichever is higher. Prevailing wage rates are amended from time to time, and the most current wage decision is always available from the Housing Authority. Contractor shall abide by the Federal Labor Standards Provisions (HUD-5370).

4.2 The Contract Sum set forth herein includes the payment by Contractor of all sales and use taxes required by any local codes, or any law existing or which may hereafter be adopted by federal, state or governmental authority, taxing the materials, services required or labor furnished, and of any other tax levied by reason of the work to be performed hereunder.

4.3 The Contract Sum is not subject to escalation, the Contractor having satisfied himself/herself with said Contract Price which includes all labor and material increases anticipated throughout the duration of this Construction Contract.

ARTICLE 5 PROGRESS PAYMENTS

5.1 Based upon Applications for Payment submitted by the Contractor to the Owner, and certificates for payment issued by the Architect/Consultant, the Owner shall make progress payments on account of the Contract Sum to the Contractor, as provided in the General Conditions of the Construction Contract.

5.2 Approved applications for progress payment will be paid by the 30th day of each month, provided that application for payment has been submitted to Owner on or before the first working day of the month.

ARTICLE 6 PROJECT CLOSEOUT

6.1 Prior to occupancy of any dwelling unit, building, or other portion of the project, the Owner shall receive a certificate from the Contractor/Consultant that such portion of the project is ready for occupancy and shall cause a Notice of Completion to be issued. A Notice of Completion shall be issued only when the work, including all phases thereof, is finally completed, and all requirements of this contract have been satisfied. The Owner shall cause the Notice of Completion to be recorded in the office of the County Recorder.

6.2 After recordation of the Notice of Completion, and expiration of the thirty (30) day period for filing of stop notices, the Owner shall settle all claims and disputes, notify the Contractor of final acceptance of the project, and make final payment of the entire unpaid balance of the Contract Sum, including the ten percent (10%) retention, less any amounts which the Owner is entitled to receive from the Contractor under the terms of this Contract, including liquidated damages.

6.3 In addition to all other requirements, a Notice of Completion shall be issued only when the Owner has received the following:

1. A Certificate of Completion, executed by the Owner
2. All guarantees and warranties issued by the manufacturers or installers of appliances or other component parts of the project. Contractor guarantees that the equipment, materials, and workmanship, not otherwise covered by a guarantee or warranty, will be free from defects in materials and workmanship for a period of one year following final acceptance of the project.
3. The waiver and release of all liens, claims of liens, or stop notice rights of the Contractor and all subcontractors, and the Contractor's Certificate and Release.
4. Verification from the Architect/Consultant that Contractor has removed all waste materials, rubbish, tools, construction equipment, machinery, and surplus materials from the project site. If the Contractor has failed to remove any of such items, the Owner may remove such items, and the Contractor shall pay the Owner for all costs incurred in connection with such removal.

ARTICLE 7 BREACH AND TERMINATION

7.1 Waiver by Owner of any breach of this Construction Contract shall not constitute a waiver of any other breach or of any future breach. No payment made hereunder shall be construed to be an acceptance of defective work or improper materials.

7.2 In addition to any right of termination reserved to the Owner by paragraph 34 of the General Conditions of the Construction Contract, the Owner may terminate this contract if the Contractor is adjudged bankrupt, a receiver is appointed because of the Contractor's insolvency, or the Contractor makes a general assignment for the benefit of his/her creditors, fails to make prompt payment to subcontractor(s), or for material or labor, persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, fails to construct the project in accordance with the Drawings and Specifications, or otherwise substantially violates any provision of the Contract documents.

7.3 The Owner shall give the Contractor and his surety five (5) days written notice prior to terminating this Contract, pursuant to this section, provided, however, that the Contractor shall, upon receipt of such notice, immediately stop the installation of improvements, or other permanent construction work encompassing part of the Project. Upon termination, the Owner may take possession of the Project and all materials, equipment, tools, and construction equipment and machinery owned by the Contractor and located at the Project Site and may finish the Project by whatever method it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment under this Contract.

7.4 The Owner shall not be deemed to have waived any of its other rights of remedies against the Contractor by exercising its right of termination under this section.

7.5 Any action at law or in equity brought by either of the parties hereto for the purpose of enforcing a right or rights provided for by this Contract shall be tried in a court of competent jurisdiction in the County of Riverside, State of California, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.

ARTICLE 8
MISCELLANEOUS PROVISIONS

8.1 Contractor shall give all notices and comply with all laws, rules, regulations, ordinances and orders of any governmental entity relating to the Work. Should Contractor become aware that any provisions of the Construction Contract is at variance with any such rule, law, regulation, ordinance or order, he/she shall promptly give notice in writing to the Owner of such variance.

8.2 It is hereby declared to be the intention of the parties that the sections, paragraphs, sentences, clauses and phrases of this Contract are severable, and if any phrase, clause, sentence, paragraph or section of this Contract shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining clauses, sentences, paragraphs and sections of this Contract.

8.3 In the event of any conflict between this Construction Contract and provisions of the General Conditions of the Contract, the provisions in the Construction Contract shall govern. In case of difference between the Technical Specifications and the Drawings, the Technical Specifications shall govern. In case of any difference between the Special Conditions and other provisions of the Construction Contract, or the Contract Documents, the provisions of the Special Conditions shall govern. In the event of difference between the Contract or General Conditions or Special Conditions or Instructions to Bidders, and the Technical Specifications or General Requirements, the former documents shall govern.

8.4 The persons executing this Contract on behalf of the parties warrant and represent that they have the authority to execute this Contract on behalf of each respective party and further warrant and represent that they have the authority to bind each respective party to the performance of its obligation hereunder.

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(Signatures on next page)

IN WITNESS WHEREOF, the parties hereto have executed this Construction Contract on _____
(To be filled in by Clerk of the Board)

ATTEST:
Kecia Harper-Ilhem

Housing Authority of the County of Riverside

Clerk of the Board

Jeff Stone, Chairperson, Board of Commissioners

By _____

W.E. O'Neil Construction Company of California

Dated _____

By  _____

Title Vice President

(SEAL)

By _____

Title _____

License # 494031

Address 909 N. SEPULVEDA BLVD., Suite 400
EL SEGUNDO, CA 90249

Phone No. (909) 460-5300

FORM APPROVED COUNTY COUNSEL
BY: 
LARISA R-MCKENNA