

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



SUBMITTAL DATE:
October 5, 2011

FROM: Housing Authority

SUBJECT: Thermal Maintenance/Lease Office Building

RECOMMENDED MOTION: The Board of Commissioners:

1. Approve the attached construction contract with D. Webb, Inc., in the amount of \$106,234 for the construction of a new maintenance/lease office located at the public housing development 56700 Polk Street, Thermal, CA 92274;
2. Authorize the Chairman of the Board to execute the attached construction contract with D. Webb, Inc; and

REVIEWED BY CIP
(Continued)

Christopher Hans

Robert Field
Executive Director

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 106,234	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	2011/12

COMPANION ITEM ON BOARD OF SUPERVISORS AGENDA: No

SOURCE OF FUNDS: Department of Housing and Urban Development (HUD), Capital Fund Program	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

Policy ☒ Policy ☒

Consent ☐ Consent ☐

Per Exec. Ofc.: ☐

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

Prev. Agn. Ref.:

District: 4

Agenda Number:

10.1

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

RECOMMENDED MOTION: (Continued)

3. Authorize the Executive Director, or designee, to take the necessary steps to implement the contract including execution of necessary and related documents.

BACKGROUND:

The Housing Authority advertised an Invitation to Bid for the construction of a new 900 square foot maintenance/lease office building for the public housing development located at 56700 Polk Street, Thermal, CA 92274 with a closing date of August 11, 2011. The proposed maintenance/lease office building is part of the conversion from a centralized management model to a decentralized site-based asset management model where maintenance and leasing activities take place at the public housing site. The asset management model promotes a more effective use of resources as leasing and maintenance staff will be on-site to meet the needs of public housing residents.

Bids are as follows:

1.	D. Webb, Inc	\$106,234
2.	Doug Wall Construction, Inc	\$245,000

County Counsel reviewed and approved as to form the lowest bid submitted by D. Webb, Inc. Funding for this project is provided through the Housing & Urban Development (HUD) Capital Fund Program. Staff recommends award of the construction contract.

PAMELA J. WALLS
County Counsel

KATHERINE A. LIND
Assistant County Counsel

OFFICE OF COUNTY COUNSEL
COUNTY OF RIVERSIDE

3960 ORANGE STREET, SUITE 500
RIVERSIDE, CA 92501-3674
TELEPHONE: 951/955-6300
FAX: 951/955-6322 & 951/955-6363



August 30, 2011

Housing Authority of the County of Riverside
5555 Arlington Avenue
Riverside, CA 92504-2506
Attn: Richard Medina

Re: Bids for Thermal Maintenance/Lease Office

Dear Ms. Marshall:

The two bids submitted for the above referenced project have been reviewed by this office.

The bids appear to be in appropriate form with the exception of a few minor irregularities. The bid by Doug Wall Construction has included a statement on obtaining bids from Indian-owned organizations. This does not appear to be a requirement of the project bid documents, but it does not affect the validity of the bid itself.

The bid by D. Webb is in appropriate form with a minor issue on the bid bond. I noted on a recent project for EDA that the name of the attorney-in-fact for the surety on the bid bond did not exactly match the name on the certificate that evidences the authority of the individual to sign. Upon speaking with the agent, it was relayed that the individual Ed Barr that signed, was the same as Ed Soo, the individual noted on the certificate. Apparently he signs under both names although the certificate only shows one name. While the ability to go against the bond is a prerequisite to a valid bid, when I spoke with the surety on the EDA project, they acknowledged that the bond was theirs, so I don't believe there is any exposure on the bid bond, but the final bonds should be carefully checked.

Respectfully,

PAMELA J. WALLS
County Counsel

A handwritten signature in cursive script, appearing to read "Marsha L. Victor", is written over the typed name.

MARSHA L. VICTOR
Principal Deputy County Counsel

Enclosures

1 **CONSTRUCTION AGREEMENT**

2 **BY AND BETWEEN**

3 **HOUSING AUTHORITY OF THE COUNTY OF RIVERSIDE**

4 **AND D. WEBB INC. FOR**

5 **THERMAL MAINTENANCE / LEASE OFFICE**

6
7 This AGREEMENT is made by and between the Housing AUTHORITY of the County
8 of Riverside, a body corporate and politic, hereinafter referred to as the "AUTHORITY," and
9 D. Webb, Inc., hereinafter referred to as "CONTRACTOR."

10 WITNESSED that the AUTHORITY and the CONTRACTOR, for the consideration
11 stated herein, mutually agree as follows:

- 12 A. The AUTHORITY is the owner of a certain real property located in the County of
13 Riverside, commonly known as **56700 Polk Street, Thermal, CA 92274**,
14 hereinafter referred to as "PROPERTY."
- 15 B. The term "WORK," includes performance, as set forth in the Agreement
16 Documents by the CONTRACTOR, of all work or improvements on, in and about
17 the PROPERTY.
- 18 C. AUTHORITY desires the CONTRACTOR to perform the WORK on the terms and
19 conditions hereinafter set forth, and CONTRACTOR agrees to perform said
20 WORK on the terms and conditions set forth below.

21
22 **ARTICLE 1**

23 **THE CONSTRUCTION AGREEMENT**

24 1.1 The "Construction Agreement" means and includes all of the "Agreement Documents."
25 The Agreement Documents which form the Construction Agreement are incorporated herein
26 by this reference and are made a part of this Construction Agreement as if fully set forth
27 herein. The Agreement Documents consist of the following component parts:

- 28 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. **CA100028 06/03/2011, Modification No. 23**
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 Scope of Services

CONTRACTOR shall furnish all labor, material, equipment and services and perform and complete all WORK required for the project identified as **Maintenance/Lease Office located at 56700 Polk Street, Thermal, CA 92274**, for the AUTHORITY. CONTRACTOR shall perform all services Monday - Friday, 7:30a.m. to 5:30p.m.

- i. The full scope of WORK is more particularly described on the approved plans and specifications.
- ii. All such WORK shall be in strict accordance with the specifications and addenda thereto and the drawings included therein, all as prepared by the AUTHORITY,

1 which said specifications and drawings are incorporated herein by reference and
2 made a part hereof.

3 2.2 Data provided in the specifications and drawings are believed to actually depict the
4 conditions to be encountered by the CONTRACTOR, but the AUTHORITY does not
5 guarantee such data as being all-inclusive or complete in any respect. Nothing contained
6 herein shall relieve CONTRACTOR from making any and all investigations he/she may deem
7 necessary to apprise him/herself of the WORK. CONTRACTOR hereby accepts the location
8 of the PROJECT in an "as is" condition and herein warrants that all such investigations have
9 been performed by him/her, and hereby expressly waives any and all rights under this
10 Construction Agreement, or in law, to additional compensation and/or time adjustments for
11 alleged unknown subsurface and/or latent conditions.

12 ARTICLE 3

13 TIME OF COMMENCEMENT AND COMPLETION

14 3.1 The WORK to be performed under this Construction Agreement shall commence
15 within ten (10) days after a Notice to Proceed is received by the CONTRACTOR, or on the
16 date specified in the Notice, whichever is later, and shall be completed within **four (4) months**
17 following the date of said Notice to Proceed.

18 3.2 Liquidated Damages

19 a. If the CONTRACTOR fails to complete the WORK within the time specified in
20 the Agreement, or any extension, as specified in the clause entitled Default of this Agreement,
21 the CONTRACTOR shall pay to the AUTHORITY as liquidated damages, the sum of **Three**
22 **Hundred and 00/Dollars (\$300.00)** for each day of delay. If different completion dates are
23 specified in the contract for separate parts or stages of the WORK, the amount of liquidated
24 damages shall be assessed on those parts or stages which are delayed. To the extent that the
25 CONTRACTOR's delay or nonperformance is excused under another clause in this
26 Agreement, liquidated damages shall not be due the AUTHORITY. The CONTRACTOR
27 remains liable for damages caused other than by delay.

b. If the AUTHORITY terminates the CONTRACTOR's right to proceed, the resulting damage will consist of liquidated damages until such reasonable time as may be required for final completion of the WORK together with any increased costs occasioned the AUTHORITY in completing the WORK.

c. If the AUTHORITY does not terminate the CONTRACTOR's right to proceed, the resulting damage will consist of liquidated damages until the WORK is completed or accepted.

ARTICLE 4

AGREEMENT SUM

4.1 The AUTHORITY shall pay the CONTRACTOR for the performance of the agreement, subject to the additions and deductions by Change Order(s) as provided in the Agreement Documents, in current funds, the sum **one hundred six thousand two hundred thirty four dollars (\$106,234).**

a. All agreements for construction, alteration, repair and painting, in excess of \$2,000, 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 AUTHORITY. CONTRACTOR shall abide by the Federal Labor Standards Provisions (HUD-5370).

4.2 The Agreement 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 Agreement Sum is not subject to escalation, the CONTRACTOR having satisfied himself/herself with said Agreement Price which includes all labor and material increases

1 anticipated throughout the duration of this Construction Agreement.

2 **ARTICLE 5**

3 **PROGRESS PAYMENTS**

4 5.1 Based upon Applications for Payment submitted by the CONTRACTOR to the
5 AUTHORITY, and certificates for payment issued by the Architect/Consultant, the
6 AUTHORITY shall make progress payments on account of the Agreement Sum to the
7 CONTRACTOR, as provided in the General Conditions of the Construction Agreement.

8 5.2 Approved applications for progress payment will be paid by the 30th day of each
9 month, provided that application for payment has been submitted to the AUTHORITY on or
10 before the first working day of the month.

11 **ARTICLE 6**

12 **INDEMNIFICATION AND HOLD HARMLESS**

13 6.1 CONTRACTOR shall indemnify and hold harmless the Authority, County of Riverside,
14 its Agencies, Districts, Special Districts and Departments, their respective directors, officers,
15 Board of Supervisors, elected and appointed officials, employees, agents and representatives (the
16 "Indemnified Parties") from any liability whatsoever, including but not limited to, PROPERTY
17 damage, bodily injury, or death, based or asserted upon any services of CONTRACTOR, its
18 officer, employees, subcontractors, agents or representatives arising out of or in any way relating
19 to this Agreement and CONTRACTOR shall defend at its sole expense and pay all costs and
20 fees, including but not limited to, attorney fees, cost of investigation, defense and settlements or
21 awards, on behalf of the Indemnified Parties in any claim or action based upon such liability.

22 6.2 With respect to any action or claim subject to indemnification herein by
23 CONTRACTOR, CONTRACTOR shall, at their sole cost, have the right to use counsel of their
24 choice and shall have the right to adjust, settle, or compromise any such action or claim without
25 the prior consent of AUTHORITY; provided, however, that any such adjustment, settlement or
26 compromise in no manner whatsoever limits or circumscribes CONTRACTOR'S
27 indemnification to the Indemnified Parties as set forth herein.

28 6.3 CONTRACTOR'S obligation hereunder shall be satisfied when CONTRACTOR has

1 provided AUTHORITY the appropriate form of dismissal relieving AUTHORITY from any
2 liability for the action or claim involved.

3 6.4 The specified insurance limits required in this Agreement shall in no way limit or
4 circumscribe CONTRACTOR'S obligations to indemnify and hold harmless the Indemnified
5 Parties herein from third party claims.

6 6.5 In the event there is conflict between this clause and California Civil Code Section 2782,
7 this clause shall be interpreted to comply with Civil Code 2782. Such interpretation shall not
8 relieve the CONTRACTOR from indemnifying the Indemnified Parties to the fullest extent
9 allowed by law.

10 **ARTICLE 7**

11 **PROJECT CLOSEOUT**

12 7.1 Prior to occupancy of any dwelling unit, building, or other portion of the PROJECT,
13 the AUTHORITY shall receive a certificate from the CONTRACTOR that such portion of the
14 PROJECT is ready for occupancy and shall cause a Notice of Completion to be issued. A
15 Notice of Completion shall be issued only when the WORK, including all phases thereof, is
16 finally completed, and all requirements of this contract have been satisfied. The AUTHORITY
17 shall cause the Notice of Completion to be recorded in the office of the County Recorder.

18 7.2 After recordation of the Notice of Completion, and expiration of the thirty (30) day
19 period for filing of stop notices, the AUTHORITY shall settle all claims and disputes, notify
20 the CONTRACTOR of final acceptance of the project, and make final payment of the entire
21 unpaid balance of the Contract Sum, including the ten percent (10%) retention, less any
22 amounts which the AUTHORITY is entitled to receive from the CONTRACTOR under the
23 terms of this Contract, including liquidated damages.

24 7.3 In addition to all other requirements, a Notice of Completion shall be issued only when
25 the AUTHORITY has received the following:

- 26 1. A Certificate of Completion, executed by the AUTHORITY.
- 27 2. All guarantees and warranties issued by the manufacturers or installers of
28 appliances or other component parts of the project. CONTRACTOR guarantees that the

1 equipment, materials, and workmanship, not otherwise covered by a guarantee or warranty,
2 will be free from defects in materials and workmanship for a period of one year following final
3 acceptance of the project.

4 3. The waiver and release of all liens, claims of liens, or stop notice rights of the
5 CONTRACTOR and all subcontractors, and the CONTRACTOR's Certificate and Release.

6 4. Verification from the AUTHORITY that CONTRACTOR has removed all waste
7 materials, rubbish, tools, construction equipment, machinery, and surplus materials from the
8 project site. If the CONTRACTOR has failed to remove any of such items, the AUTHORITY
9 may remove such items, and the CONTRACTOR shall pay the AUTHORITY for all costs
10 incurred in connection with such removal.

11 **ARTICLE 8**

12 **BREACH AND TERMINATION**

13 8.1 Waiver by AUTHORITY of any breach of this Construction Agreement shall not
14 constitute a waiver of any other breach or of any future breach. No payment made hereunder
15 shall be construed to be an acceptance of defective WORK or improper materials.

16 8.2 In addition to any right of termination reserved to the AUTHORITY by paragraph 34 of
17 the General Conditions of the Construction Agreement, the AUTHORITY may terminate this
18 contract if the CONTRACTOR is adjudged bankrupt, a receiver is appointed because of the
19 CONTRACTOR's insolvency, or the CONTRACTOR makes a general assignment for the
20 benefit of his/her creditors, fails to make prompt payment to subcontractor(s), or for material or
21 labor, persistently disregards laws, ordinances, rules, regulations or orders of any public
22 AUTHORITY having jurisdiction, fails to construct the project in accordance with the
23 Drawings and Specifications, or otherwise substantially violates any provision of the Contract
24 documents.

25 8.3 The AUTHORITY shall give the CONTRACTOR and his surety five (5) days written
26 notice prior to terminating this Contract, pursuant to this section, provided, however, that the
27 CONTRACTOR shall, upon receipt of such notice, immediately stop the installation of
28 improvements, or other permanent construction work encompassing part of the PROJECT.

1 Upon termination, the AUTHORITY may take possession of the PROJECT and all materials,
2 equipment, tools, and construction equipment and machinery owned by the CONTRACTOR
3 and located at the PROJECT Site and may finish the PROJECT by whatever method it may
4 deem expedient. In such case, the CONTRACTOR shall not be entitled to receive any further
5 payment under this Agreement.

6 8.4 The AUTHORITY shall not be deemed to have waived any of its other rights of
7 remedies against the CONTRACTOR by exercising its right of termination under this section.

8 8.5 Any action at law or in equity brought by either of the parties hereto for the purpose of
9 enforcing a right or rights provided for by this Agreement shall be tried in a court of competent
10 jurisdiction in the County of Riverside, State of California, and the parties hereby waive all
11 provisions of law providing for a change of venue in such proceedings to any other county.

12 **ARTICLE 9**

13 **MISCELLANEOUS PROVISIONS**

14 9.1 CONTRACTOR shall give all notices and comply with all laws, rules, regulations,
15 ordinances and orders of any governmental entity relating to the WORK. Should
16 CONTRACTOR become aware that any provisions of the Construction Agreement is at
17 variance with any such rule, law, regulation, ordinance or order, he/she shall promptly give
18 notice in writing to the AUTHORITY of such variance.

19 9.2 It is hereby declared to be the intention of the parties that the sections, paragraphs,
20 sentences, clauses and phrases of this Agreement are severable, and if any phrase, clause,
21 sentence, paragraph or section of this Agreement shall be declared unconstitutional, invalid or
22 unenforceable by the valid judgment or decree of a court of competent jurisdiction, such
23 unconstitutionality, invalidity or unenforceability shall not affect any of the remaining clauses,
24 sentences, paragraphs and sections of this Agreement.

25 9.3 In the event of any conflict between this Construction Agreement and provisions of the
26 General Conditions of the Agreement, the provisions in the Construction Agreement shall
27 govern. In case of difference between the Technical Specifications and the Drawings, the
28 Technical Specifications shall govern. In case of any difference between the Special

1 Conditions and other provisions of the Construction Agreement, or the Agreement Documents,
2 the provisions of the Special Conditions shall govern. In the event of difference between the
3 Agreement or General Conditions or Special Conditions or Instructions to Bidders, and the
4 Technical Specifications or General Requirements, the former documents shall govern.

5 9.4 The persons executing this Agreement on behalf of the parties warrant and represent
6 that they have the AUTHORITY to execute this Agreement on behalf of each respective party
7 and further warrant and represent that they have the AUTHORITY to bind each respective
8 party to the performance of its obligation hereunder.

9 ///

10 ///

11 ///

12 ///

13 (Signatures on next page)

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28

1 IN WITNESS WHEREOF, the parties hereto have executed this Construction Contract
2 on _____
3 (to be filled in by Clerk of the Board)
4
5

6 ATTEST:

Housing Authority of the County of Riverside

7
8
9
10 _____
11 Kecia Harper-Ihem
12 Clerk of the Board

Bob Buster, Chairman
Board of Commissioners

13 AGENCY COUNSEL

OWNER

14
15 By MB Victor 9/27/11
16 Marsha Victor

15 By [Signature]
16 David Webb

17 Title President

18
19 (SEAL)

20 License # 794667

21 Address 9066 Fectone Ave
22 Yucca Valley CA 92384

23
24 Phone No. 760-401-4034
25
26

27 S:\Department\Contracting\aaaDevelopment Division\Thermal- Lease Office\Contract for Thermal Lease Office.docx
28