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



FROM: Economic Development Agency

SUBMITTAL DATE: March 26, 2015

SUBJECT: Off-Site Improvements for the East County Detention Center – Approval of Professional Services Agreement for Engineering Design and Construction Management Services, District 4, [\$649,410], Bond Proceeds 100%

**RECOMMENDED MOTION:** That the Board of Supervisors:

- 1. Approve the attached professional services agreement for engineering design and construction management services between the County of Riverside and Albert A. Webb Associates (Webb) of Riverside, California, in the amount of \$649,410, for the Off-Site Improvements for the East County Detention Center (ECDC) Project, and authorize the Chairman of the Board to execute the agreement on behalf of the county:
- 2. Authorize the Assistant County Executive Officer/EDA to administer the agreement in accordance with applicable Board policies; and

(Continued)

FISCAL PROCEDURES APPROVED

Esteban Hernandez

Robert Field

Assistant County Executive Officer/EDA

FINANCIAL DATA	Current	Fiscal Year:	Ne	xt Fiscal Year:	To	tal Cost:	o	ngoing Cost:	AND STREET, BUT TO STREET, THE CONTROL OF	CONSENT
COST	\$	426,750	\$	222,660	\$	649,410	\$	0	3.	c. Office)
NET COUNTY COST	\$	0	\$	0	\$	0	\$	0	Consent	Policy A
COURCE OF FUN	<b>DO</b> D			1000/			<u>ٺ</u>	1	1	

SOURCE OF FUNDS: Bond Proceeds 100%

**Budget Adjustment: No** 

For Fiscal Year: 2014/15-15/16

C.E.O. RECOMMENDATION:

REVIEWED BY-CIP

APPROVE

**County Executive Office Signature** 

# MINUTES OF THE BOARD OF SUPERVISORS

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

Ayes:

Jeffries, Washington, Benoit and Ashley

Nays:

None

Absent:

**Tavaglione** April 7, 2015

Date: XC:

**EDA** 

□ | **Prev. Agn. Ref.:** 3-18 of 07/16/13

District: 4

Agenda Number:

Kecia Harper-Ihem

Clerk øl

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

**Economic Development Agency** 

**FORM 11:** Off-Site Improvements for the East County Detention Center – Approval of Professional Services Agreement for Engineering Design and Construction Management Services, District 4, [\$649,410], Bond Proceeds 100%

**DATE:** March 26, 2015

**PAGE:** 2 of 2

# **RECOMMENDED MOTION: (Continued)**

3. Delegate project management authority for the project to the Assistant County Executive Officer/EDA in accordance with applicable Board policies.

# BACKGROUND: Summary

On July 28, 2014, the Economic Development Agency (EDA) advertised a Request for Qualifications (RFQ) for the selection of a qualified firm to provide engineering design and construction management services for the Off-Site Improvements for the ECDC project. The services required for the project include preparation of studies and plans required for the development of street improvements, storm drain improvements, traffic signals, street lighting, medians, and landscape and hardscape improvements. The project also required construction management services for the off-site improvements.

Per Board Policy H-7 and the Government Code, a selection committee was formed that included representatives from EDA and Vanir Construction Management, to review each firm's Statements of Qualifications (SOQ) and to interview selected firms. Webb has been selected as the firm best suited to provide engineering design and construction management services due to their experience and successful completion of similar projects for the County of Riverside.

# **Impact on Citizens and Businesses**

The off-site improvements will be designed for public safety, aesthetics and convenience for traversing either by vehicle or on foot in and around the East County Detention Center.

# **Additional Fiscal Information**

It is anticipated that the civil engineering design will be completed within FY 2014/15 and the remaining services for construction management will be expended in FY 2015/16. All costs associated with this project will be 100% funded through Bond Proceeds. Expenditures for FY 2014/15 are estimated at \$426,750; expenditures for FY 2015/16 are estimated at \$222,660, thus no net county costs will be incurred and no budget adjustment is required at this time.

#### Attachment:

Professional Services Agreement for Engineering Design and Construction Management Services

# **AGREEMENT**

for

**Engineering Services** 

between

**County of Riverside** 

and

Albert A. Webb Associates, Inc.

# **Table of Contents**

ARTI	ICLE I • DESIGNATED CONTACTS	1
ΔRTI	ICLE II • PROJECT DEFINITION	1
ARTI	ICLE III • COOPERATIVE AGENCIES	
Α.	Lead Agency	
B.	COUNTY Standards	2
ARTI	ICLE IV • CONDITIONS	2
Α.	Notifications	
В.	Assignment	
C.	Subcontracts	
D.	Modifications	
E.	COUNTY Directives	
F.	Liability	
G.	Indemnification and Defense	
H.	Quality Control	
1.	Value Engineering	
J.	Extra Work	
K.	Disputes	
L.	Termination Without Cause	
M.		
N.	Insurance	
Ο.	Conflict of Interest	
Ρ.	Legal Compliance	
Q.	Nondiscrimination	
R.	Labor Code and Prevailing Wages	
S.	Review and Inspection	
T.	Record Retention / Audits	
U.	Ownership of Data	
V.	Confidentiality of Data	
W.		
A DTI	ICLE V • PERFORMANCE	15
<b>А</b> П I I		
В.	Time Extensions	
Б. С.		
	Evaluation of ENGINEER	
	ICLE VI • COMPENSATION	
Α.		
B.		
C.	Progress Payments	17
ARTI	ICLE VII • GENERAL TERMS	19
ARTI	ICLE VIII • APPROVALS	20
APP	PENDICES	
	. Schedule of Services	Α
	. Budget	

1	PROFESSIONAL ENGINEERING SERVICES AGREEMENT				
2	This Agreement for Professional Engineering Services is made by and between the COUNTY OF RIVERSIDE,				
3	hereinafter referred to as "COUNTY", and Albert A. Webb Associates, hereinafter referred to as "ENGINEER",				
4	(collectively the "Parties"), who are located at the following addresses:				
5	County of Riverside Albert A. Webb Associates, Inc.				
6	Economic Development Agency 3788 McCray Street				
7	Tenth Street, 4 <sup>th</sup> Floor Riverside, CA 92506				
8	Riverside, CA 92501				
9	The Parties do hereby agree as follows:				
10	ARTICLE I • DESIGNATED CONTACTS				
11	Coordination of ENGINEER and COUNTY activities shall be accomplished through the ENGINEER'S PROJECT				
12	MANAGER, and a COUNTY PROJECT MANAGER.				
13	The PROJECT MANAGER for ENGINEER shall be:				
14	Delish Sheth, PE, TE, Vice President				
15	The COUNTY PROJECT MANAGER for COUNTY shall be:				
16	Anna Rodriguez, County Project Manager				
17	ARTICLE II • PROJECT DEFINITION				
18	The COUNTY desires to provide for the necessary and required off-site improvements for the East County				
19	Detention Center in the City of Indio. The project requires both civil engineering design and construction				
20	administration services. ENGINEER shall furnish all technical and professional services including labor, material,				
21	equipment, transportation, supervision, and expertise to fully and adequately perform and complete the covenants				
22	set forth in Exhibit A, Schedule of Services, which is attached hereto and incorporated herein by reference. All				
23	services and deliverables associated with the performance and accomplishment of the covenants described in the				
24	Schedule of Services is hereinafter collectively referred to as the "PROJECT".				
25	ARTICLE III • COOPERATIVE AGENCIES				
26	A. Lead Agency				
27	COUNTY has designated its Economic Development Agency as the lead agency for PROJECT.				

ENGINEER agrees that it will maintain coordination with COUNTY designated personnel as may be

East County Detention Center Off-Site Improvement - FM08410000039

requested or required for PROJECT.

28

29

# 

#### **B. COUNTY Standards**

All deliverables shall be prepared in accordance with the current COUNTY practices, regulations, policies, procedures, manuals and standards where applicable. All deliverables are subject to review and approval by COUNTY.

# C. ENGINEER Staff

1. ENGINEER has been selected to perform the PROJECT herein because of the skills and expertise of key individuals. ENGINEER agrees that the following key individuals in ENGINEER'S company shall be associated with the PROJECT in the following capacities:

JOB TITLE	NAME
Project Manager	Delish Sheth, PE, TE, Vice President
Principal-In-Charge	Bruce Davis, PE, Senior Vice President
Technical Advisor	Scott Hildebrandt, PE, Senior Vice President
Storm Drain & Water Quality	Joseph Caldwell, PE, CPESC, CPSWQ, Director

- ENGINEER shall not change any of the key personnel listed above without prior written approval of COUNTY, unless said personnel ceases to be employed by ENGINEER. In either case, COUNTY shall be allowed to interview and approve replacement personnel.
- 3. If any designated lead or key person fails to perform to the satisfaction of the COUNTY, then upon written notice the ENGINEER shall immediately remove that person from the PROJECT and provide a temporary replacement. ENGINEER shall within seven (7) days provide a permanent replacement person acceptable to COUNTY.

#### **ARTICLE IV • CONDITIONS**

#### A. Notifications

All notices hereunder and communications regarding interpretation of the terms of this Agreement and changes thereto shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid and addressed to the attention of the ENGINEER PROJECT MANAGER or the COUNTY PROJECT MANAGER at the respective addresses provided on page one of this Agreement.

# **B.** Assignment

In as much as this Agreement is intended to secure the specialized services of ENGINEER, ENGINEER may not assign, transfer, delegate or sublet any interest herein without the prior written consent of COUNTY, which may be granted or withheld in its' sole discretion; and any such assignment, transfer, delegation or sublease without the COUNTY'S prior written consent shall be considered null and void.

#### C. Subcontracts

- ENGINEER shall perform the services contemplated with resources available within its own organization.
   No portion of the services pertinent to this Agreement shall be subcontracted without written authorization by the COUNTY PROJECT MANAGER, except that which is expressly identified in this Agreement.
- 2. In the event ENGINEER subcontracts any portion of ENGINEER'S duties under this Agreement, ENGINEER shall require its subcontractors to comply with the terms of this Agreement in the same manner as required of ENGINEER including, but not limited to; indemnification of the COUNTY, requiring the same insurance of Subcontractors as required of ENGINEER, and having Subcontractor's insurance name the COUNTY as Additional Insured for each type of insurance where this Agreement requires ENGINEER'S insurance to name COUNTY as Additional Insured.

# D. Modifications

- This Agreement may be amended or modified only by mutual written agreement of the Parties. No alteration or variation of the terms of this contract will be valid unless made in writing and signed by the Parties hereto and no oral understanding or agreement not incorporated herein, will be binding on any of the Parties hereto.
- 2. Minor modifications are changes that do not substantially affect the Scope of Service. Minor modifications may be: a shift of funds between tasks within a budget category; the shifting of work and/or funding from one phase to another. All requests for minor modifications must be approved in writing by the Director of EDA, or his designee, prior to implementing the change.
- 3. There shall be no change in the ENGINEER PROJECT MANAGER or key members of the PROJECT team without prior written approval by the COUNTY PROJECT MANAGER.
- 4. All modifications that do not fit within the definition of a minor modification to this Agreement shall be considered a major change and must be approved in writing by the ENGINEER and COUNTY Board of Supervisors prior to implementing the major change.

# **E. COUNTY Directives**

ENGINEER shall receive contract directions and interpretations from the COUNTY PROJECT MANAGER.

# F. Liability

- 1. ENGINEER has total responsibility for the accuracy and completeness of all data, reports, plans, and estimates prepared for PROJECT and shall check all such material accordingly. COUNTY will review all work product deliverables. The responsibility for accuracy and completeness of such items remains solely that of ENGINEER. Neither the COUNTY'S review nor approval shall give rise to any liability or responsibility on the part of COUNTY, or waive any of COUNTY'S rights, or relieve ENGINEER of its professional responsibilities or obligations under this Agreement.
- 2. The plans, designs, estimates, calculations, reports and other documents furnished in accordance with the Scope of Services shall meet the criteria for acceptance and be a product of neat appearance, well organized, technically and grammatically correct, checked and having the preparer and checker identified. The minimum standard of appearance, organization and contents shall be of similar types produced by COUNTY. If any work product submitted is not complete and ready for use by COUNTY, it shall be marked "Draft" or similar designation to indicate it is not ready for use by COUNTY. COUNTY expects that all work products not so designated are ready for and can be used on PROJECT.
- 3. COUNTY and ENGINEER agree that plans, drawings or other work products prepared by ENGINEER are for the exclusive use of COUNTY and will be used by COUNTY for the project for which they were specifically prepared. ENGINEER shall not be responsible for use of such plans, drawings or other work products if used on a different project without the written authorization or approval by ENGINEER.
- 4. ENGINEER acknowledges that the plans, drawings and/or other work products may be used by COUNTY for the PROJECT regardless of any disputes that may develop between ENGINEER and COUNTY. All plans, drawings, or other work product shall be deemed the sole and exclusive property of COUNTY and ownership thereof is irrevocably vested in COUNTY whether the PROJECT is executed or not.
- 5. ENGINEER, and the agents and employees of ENGINEER, in the performance of this contract, shall act in an independent capacity and not as officers, employees or agents of COUNTY.
- 6. ENGINEER has the sole discretion to determine how, when, and where to perform services required to achieve the final result specified in the Scope of Services for PROJECT subject to PROJECT timelines

- and availability of access during COUNTY regular operating hours.
- 7. ENGINEER has the right to perform services for other clients during the term of this Agreement as long as such services are not in direct conflict with the services provided to COUNTY.
- 8. ENGINEER and its employees shall not be entitled to and are not eligible for COUNTY employee benefits, including, but not limited to, medical, dental or vision insurance, life insurance, retirement benefits, vacation or sick pay, or any other benefit or compensation beyond that which is set forth explicitly in this contract.
- 9. ENGINEER shall provide and maintain, throughout the term of this contract, their own workspace, tools, equipment and supplies necessary to perform the duties set forth for ENGINEER under this Agreement. Notwithstanding the foregoing, COUNTY may, in its sole discretion, and with prior consent, provide access to COUNTY facilities, offices or meeting rooms during regular business hours for meetings, conferences or other work of ENGINEER.

### G. Indemnification and Defense

- 1. The ENGINEER agrees to and shall indemnify and hold harmless the County of Riverside, its Agencies, Districts, Departments and Special Districts, their respective directors, officers, Board of Supervisors, elected and appointed officials, employees, agents and representatives (hereinafter individually and collectively referred to as "Indemnitees") from all liability, including, but not limited to loss, suits, claims, demands, actions, or proceedings caused by any alleged or actual negligence, recklessness, willful misconduct, errors or omissions of ENGINEER, its directors, officers, partners, employees, agents or representatives or any person or organization for whom ENGINEER is responsible, arising out of or from the performance of services under this Agreement. To the extent a loss, suit, claim, demand, action, or proceeding is based on actual or alleged acts or omissions of ENGINEER which are not design professional services, ENGINEER shall indemnify Indemnitees whether or not ENGINEER is negligent.
- 2. ENGINEER further agrees to and shall indemnify and hold harmless the Indemnitees from all liability arising from suits, claims, demands, actions, or proceedings made by agents, employees or subcontractor of ENGINEER for salary, wages, compensation, health benefits, insurance, retirement or any other benefit not explicitly set forth in this Agreement and arising out of work performed for COUNTY pursuant to this Agreement.
- 2. The duty to indemnify does not include loss, suits, claims, demands, actions, or proceedings caused by

actual negligence of Indemnitees; however, any actual negligence of Indemnitees will only affect the duty to indemnify for the specific act found to be negligence, and will not preclude a duty to indemnify for any act or omission of ENGINEER.

- 3. ENGINEER shall defend and pay, at its sole expense, all costs and fees, including but not limited to attorney fees, cost of investigation, and defense, in any loss, suits, claims, demands, actions, or proceedings based or alleged to be based on any act or omission of ENGINEER arising out of or from the performance of services under this contract. The duty to defend applies to any alleged or actual negligence, recklessness, willful misconduct, error or omission of ENGINEER. The duty to defend shall apply whether or not ENGINEER is a party to the lawsuit, and shall apply whether or not ENGINEER is directly liable to the plaintiffs in the lawsuit. The duty to defend applies even if Indemnitees are alleged or found to be actively negligent, unless the act or omission at issue was caused by the sole active negligence of Indemnitees.
- 4. The specified insurance provisions and limits required in this contract shall in no way limit or circumscribe ENGINEER'S obligations to indemnify and hold harmless Indemnitees from third party claims.
- In the event there is conflict between the indemnity and defense provisions and California Civil Code Sections 2782 and 2782.8, the indemnity and defense provisions shall be interpreted to comply with Civil Code sections 2782 and 2782.8.

#### H. Quality Control

ENGINEER shall implement and maintain the following quality control procedures during the preparation of the plans, reports, and documents relating to PROJECT. ENGINEER shall have a quality control plan in effect during the entire time services are being performed under this contract. The plan shall establish a process whereby calculations are independently checked, plans checked, corrected and back-checked, and all job related correspondence and memoranda routed and received by affected persons and then bound in appropriate job files. Where several drawings show different work in the same area, means shall be provided to avoid conflicts and misalignment in both new and existing improvements. Evidence that the quality control plan is functional may be requested by the COUNTY PROJECT MANAGER. All plans, calculations, documents and other items submitted to the COUNTY PROJECT MANAGER for review shall be marked clearly as being fully checked and that the preparation of the material followed the quality control plan established for the work.

#### I. Extra Work

- In the event that COUNTY directs ENGINEER to provide services constituting Extra Work, COUNTY shall
  provide extra compensation to the ENGINEER. Allowable compensation for approved extra work will be
  based on the provisions of Exhibit B, Budget, which is attached hereto and incorporated herein by
  reference.
- 2. An amendment to this Agreement providing for such compensation for Extra Work shall be issued by COUNTY to ENGINEER. Such Amendment shall not be effective until executed by both Parties.
- ENGINEER shall not perform Extra Work until receiving written authorization from the COUNTY PROJECT MANAGER.

#### J. Disputes

- 1. In the event ENGINEER considers any work demanded of him to be outside the requirements of this Agreement, or if he considers any order, instruction, or decision of COUNTY to be unfair, he shall promptly upon receipt of such order, instruction or decision, ask for a written confirmation of the same whereupon he shall proceed without delay to perform the work or to conform to the order, instruction, or decision; but unless ENGINEER finds such order, instruction, or decision satisfactory, he shall within 20 days after receipt of same, file a written protest with COUNTY stating clearly and in detail his objections and reasons therefore. Except for such protests or objections as are made of record in the manner specified and within the time stated herein, and except for such instances where the basis of a protest could not reasonably have been foreseen by ENGINEER within the time limit specified for protest, ENGINEER hereby waives all grounds for protests or objections to the orders, instruction, or decisions of COUNTY and hereby agrees that, as to all matters not included in such protests, the orders, instructions and decisions of COUNTY will be limited to matters properly falling within COUNTY's authority.
- 2. Any controversy or claim arising out of or relating to this Agreement which cannot be resolved by mutual agreement may be settled by mediation or arbitration, provided that the Parties mutually agree to submit to mediation or arbitration.
- 3. Neither the pendency of a dispute nor its consideration by arbitration will excuse ENGINEER from full and timely performance in accordance with the terms of the contract.

#### K. Termination Without Cause

1. COUNTY reserves the right to terminate this contract at COUNTY's discretion and without cause, upon

thirty (30) calendar days written notice to ENGINEER.

- 2. In the event of termination of the Agreement, upon demand, ENGINEER shall deliver to COUNTY all field notes, surveys, studies, reports, plans, drawings, specifications, and all other materials and documents prepared by or provided to ENGINEER in the performance of this contract. All such documents and materials shall be property of COUNTY.
- 3. In the event that this contract is terminated, ENGINEER is entitled to full payment for all services performed in accordance with the terms of this Agreement up to the time written notice of contract cancellation is received by ENGINEER. Payment shall be made for services performed to date based upon the percentage ratio that the basic services performed bear to the services contracted for, less payments made to date; plus any amount for authorized, but unpaid, extra work performed and costs incurred.

#### L. Termination for Lack of Performance

COUNTY may terminate this contract and be relieved of the payment of any consideration to ENGINEER should ENGINEER fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, COUNTY may proceed with the work in any manner deemed proper by COUNTY. In such event, ENGINEER shall be paid only for work completed and delivered to COUNTY in a timely and successful manner.

#### M. Insurance

Without limiting or diminishing the ENGINEER'S obligation to indemnify or hold the COUNTY harmless, ENGINEER shall procure and maintain or cause to be maintained, at its sole cost and expense, the following insurance coverage's during the term of this Agreement. As respects to the insurance section only, the COUNTY herein refers to the County of Riverside, its Agencies, Districts, Special Districts, and Departments, their respective directors, officers, Board of Supervisors, employees, elected or appointed officials, agents or representatives as Additional Insureds.

#### 1. Workers' Compensation:

If the ENGINEER has employees as defined by the State of California, the ENGINEER shall maintain statutory Workers' Compensation Insurance (Coverage A) as prescribed by the laws of the State of California. Policy shall include Employers' Liability (Coverage B) including Occupational Disease with limits not less than \$1,000,000 per person per accident. The policy shall be endorsed to waive

subrogation in favor of The County of Riverside.

# 2. Commercial General Liability:

Commercial General Liability insurance coverage, including but not limited to, premises liability, unmodified contractual liability, products and completed operations liability, personal and advertising injury, and cross liability coverage, covering claims which may arise from or out of ENGINEER'S performance of its obligations hereunder. Policy shall name the COUNTY as Additional Insured. Policy's limit of liability shall not be less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit.

#### 3. Vehicle Liability:

If vehicles or mobile equipment are used in the performance of the obligations under this Agreement, then ENGINEER shall maintain liability insurance for all owned, non-owned or hired vehicles so used in an amount not less than \$1,000,000 per occurrence combined single limit. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two (2) times the occurrence limit. Policy shall name the COUNTY as Additional Insureds.

# 4. Professional Liability

ENGINEER shall maintain Professional Liability Insurance providing coverage for the ENGINEER's performance of work included within this Agreement, with a limit of liability of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate. If ENGINEER'S Professional Liability Insurance is written on a claims made basis rather than an occurrence basis, such insurance shall continue through the term of this Agreement and ENGINEER shall purchase at his sole expense either 1) an Extended Reporting Endorsement (also, known as Tail Coverage); or 2) Prior Dates Coverage from new insurer with a retroactive date back to the date of, or prior to, the inception of this Agreement; or 3) demonstrate through Certificates of Insurance that ENGINEER has Maintained continuous coverage with the same or original insurer. Coverage provided under items; 1), 2), or 3) will continue as long as the law allows.

# 5. General Insurance Provisions - All lines:

a. Any insurance carrier providing insurance coverage hereunder shall be admitted to the State of California and have an A M BEST rating of not less than A: VIII (A:8) unless such requirements are waived, in writing, by the County Risk Manager. If the County's Risk Manager waives a requirement

for a particular insurer such waiver is only valid for that specific insurer and only for one policy term.

- b. The ENGINEER must declare its insurance self-insured retention for each coverage required herein. If any such self-insured retention exceed \$500,000 per occurrence each such retention shall have the prior written consent of the County Risk Manager before the commencement of operations under this Agreement. Upon notification of self-insured retention unacceptable to the COUNTY, and at the election of the Country's Risk Manager, ENGINEER'S carriers shall either; 1) reduce or eliminate such self-insured retention as respects this Agreement with the COUNTY, or 2) procure a bond which guarantees payment of losses and related investigations, claims administration, and defense costs and expenses.
  - ENGINEER shall cause ENGINEER'S insurance carrier(s) to furnish the County of Riverside with either 1) a properly executed original Certificate(s) of Insurance and certified original copies of Endorsements effecting coverage as required herein, and 2) if requested to do so orally or in writing by the County Risk Manager, provide original Certified copies of policies including all Endorsements and all attachments thereto, showing such insurance is in full force and effect. Further, said Certificate(s) and policies of insurance shall contain the covenant of the insurance carrier(s) that thirty (30) days written notice shall be given to the County of Riverside prior to any material modification, cancellation, expiration or reduction in coverage of such insurance. In the event of a material modification, cancellation, expiration, or reduction in coverage, this Agreement shall terminate forthwith, unless the County of Riverside receives, prior to such effective date, another properly executed original Certificate of Insurance and original copies of endorsements or certified original policies, including all endorsements and attachments thereto evidencing coverage's set forth herein and the insurance required herein is in full force and effect. ENGINEER shall not commence operations until the COUNTY has been furnished original Certificate (s) of Insurance and certified original copies of endorsements and if requested, certified original policies of insurance including all endorsements and any and all other attachments as required in this Section. An individual authorized by the insurance carrier to do so on its behalf shall sign the original endorsements for each policy and the Certificate of Insurance.
- d. It is understood and agreed to by the parties hereto that the ENGINEER'S insurance shall be construed as primary insurance, and the COUNTY'S insurance and/or deductibles and/or self-insured

retention's or self-insured programs shall not be construed as contributory.

- e. If, during the term of this Agreement or any extension thereof, there is a material change in the scope of services; or, there is a material change in the equipment to be used in the performance of the scope of work; or, the term of this Agreement, including any extensions thereof, exceeds five (5) years; the COUNTY reserves the right to adjust the types of insurance and the monetary limits of liability required under this Agreement, if in the County Risk Manager's reasonable judgment, the amount or type of insurance carried by the ENGINEER has become inadequate.
- f. ENGINEER shall pass down the insurance obligations contained herein to all tiers of ENGINEERs working under this Agreement.
- g. The insurance requirements contained in this Agreement may be met with a program(s) of self-insurance acceptable to the COUNTY.
- h. ENGINEER agrees to notify COUNTY of any claim by a third party or any incident or event that may give rise to a claim arising from the performance of this Agreement.

# N. Conflict of Interest

ENGINEER warrants, by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by ENGINEER for the purpose of securing business. For breach or violation of this warranty, COUNTY has the right to annul this Agreement without liability, pay only for the value of the work actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee. ENGINEER may be requested to complete a Conflict of Interest Statement prior to, during, or after execution of this contract. ENGINEER understands that as a condition of this contract ENGINEER agrees to complete the Conflict of Interest Statement when requested to do so by COUNTY.

#### O. Legal Compliance

ENGINEER shall comply with all Federal, State and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals currently in effect and in any manner affecting the performance under this contract, including, without limitation,

21 22

23 24

25

26

27

28

29

workers' compensation laws and licensing and regulations.

# P. Nondiscrimination

- 1. During the performance of this Agreement, ENGINEER and its Subcontractors shall not act unlawfully against any employee or applicant for employment because of race, religion, color, national origin, ancestry, physical handicap, medical condition, marital status, age or sex. ENGINEER and Subcontractor shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and applicable regulations promulgated thereunder (California Administrative Code, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12900, set forth in Chapter 5 of Division 4 of Title 2 of the California Administrative Code are incorporated into this Agreement by reference and made a part hereof as if set forth in full. ENGINEER and its Subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- 2. ENGINEER will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by COUNTY to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of ENGINEER is in the exclusive possession of another who fails or refuses to furnish this information, ENGINEER shall so certify to COUNTY, and shall set forth what efforts he has made to obtain the information.
- 3. In the event of ENGINEER'S noncompliance with the nondiscrimination provisions of this contract, COUNTY shall impose such contract sanctions as it determines to be appropriate, including, but not limited to:
  - Withholding of payments to ENGINEER under the contract until ENGINEER complies;
  - Cancellation, termination, or suspension of the contract in whole or in part.
- 4. ENGINEER shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this contract.
- 5. ENGINEER shall comply with Title VI of the Civil Rights Act of 1964, as amended. Accordingly, 49 CFR 21 through Appendix H and 23 CFR 710.405(b) is applicable to this contract by reference.

### Q. Labor Code and Prevailing Wages

- Certain Classifications of Labor under this contract may be subject to prevailing wage requirements.
- 2. Reference is made to Chapter 1, Part 7, Division 2 of the California Labor Code (commencing with Section 1720). By this reference said Chapter 1 is incorporated herein with like effect as if it were here set forth in full. The parties recognize that said Chapter 1 deals, among other things with discrimination, penalties and forfeitures, their disposition and enforcement, wages, working hours, and securing worker's compensation insurance and directly affect the method of prosecution of the work by ENGINEER and subject it under certain conditions to penalties and forfeitures. Execution of the contract by the parties constitutes their agreement to abide by said Chapter 1, their stipulation as to all matters which they are required to stipulate as to by the provisions of said Chapter 1, constitutes ENGINEER'S certification that he is aware of the provisions of said Chapter 1 and will comply with them and further constitutes ENGINEER'S certification as follows: "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this contract."
- 3. Pursuant to Section 1773 of the Labor Code, the general prevailing wage rates, including the per diem wages applicable to the work, and for holiday and overtime work, including employer payments for health and welfare, pension, vacation, and similar purposes, in the county in which the work is to be done have been determined by the Director of the California Department of Industrial Relations. These wages are available from the California Department of Industrial Relations' Internet website at http://www.dir.ca.gov.

#### R. Review and Inspection

ENGINEER and any Subcontractors shall permit COUNTY to review and inspect PROJECT activities including review and inspection on a daily basis, if requested.

# S. Record Retention / Audits

- 1. ENGINEER, Subcontractors, and COUNTY shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for ten years from the date of final payment under the contract or ten years from project closeout, whichever is later.
- 2. COUNTY, the State Auditor General, or any duly authorized representative of the State Government shall

have access to any books, records, and documents of ENGINEER that are pertinent to the contract for audits, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

### T. Ownership of Data

Ownership and title to all reports, documents, plans, specifications, and estimates produced as part of this contract will automatically be vested in COUNTY and no further agreement will be necessary to transfer ownership to COUNTY.

#### **U.** Confidentiality of Data

- All financial, statistical, personal, technical or other data and information which is designated confidential
  by COUNTY, and made available to ENGINEER in order to carry out this contract, shall be protected by
  ENGINEER from unauthorized use and disclosure.
- 2. Permission to disclose information on one occasion for a public hearing held by COUNTY relating to the contract shall not authorize ENGINEER to further disclose such information or disseminate the same on any other occasion.
- 3. ENGINEER shall not comment publicly to the press or any other media regarding the contract, including COUNTY actions regarding this contract. Communication shall be limited to COUNTY, or ENGINEER'S staff that are involved with the project, unless ENGINEER shall be requested by COUNTY to attend a public hearing or respond to questions from a Legislative committee.
- 4. Each subcontract shall contain provisions similar to the foregoing related to the confidentiality of data and nondisclosure of the same.
- 5. ENGINEER shall not issue any news release or public relations item of any nature whatsoever regarding work performed or to be performed under this contract without prior review of the contents thereof by COUNTY and receipt of COUNTY's written permission.

# V. Funding Requirements

- All obligations of COUNTY are subject to appropriation of resources by various Federal, State and local agencies.
- 2. This contract is valid and enforceable only if sufficient funds are made available to COUNTY for the purpose of this PROJECT. In addition, this contract is subject to any additional restrictions, limitations, conditions or any statute enacted by Congress, State Legislature or COUNTY that may affect the provisions, terms or funding of this contract in any manner.

 It is mutually agreed that if sufficient funds for the program are not appropriated, this contract will be amended or terminated to reflect any reduction in funds.

#### **ARTICLE V • PERFORMANCE**

#### A. Performance Period

- This Agreement shall begin upon notification to proceed by the COUNTY PROJECT MANAGER. Unless terminated or otherwise cancelled as permitted herein, the term of this Agreement shall be: January 15, 2015 to June 30, 2017.
- ENGINEER is advised that any recommendation for contract award is not binding on COUNTY until the proposed contract is fully executed and approved by COUNTY.
- ENGINEER shall perform PROJECT services in accordance with the provisions set forth in Exhibit A,
   Schedule of Services, which is attached hereto and incorporated herein by reference.
- 4. Where ENGINEER is required to prepare and submit studies, reports, plans, etc., to COUNTY, these shall be submitted in draft as scheduled, and the opportunity provided for COUNTY to offer comments prior to final submission.
- 5. When COUNTY determines that ENGINEER has satisfactorily completed the PROJECT services, COUNTY may give ENGINEER a written Notice of Final Acceptance. ENGINEER shall not incur any further costs hereunder unless so specified in the Notice of Final Acceptance. ENGINEER may request a Notice of Final Acceptance determination when, in its opinion, it has satisfactorily completed all covenants as stipulated in this contract.
- 6. Time is of the essence in this contract.

# B. Time Extensions

- 1. Any delay in providing PROJECT services required by this contract occasioned by causes beyond the control and not due to the fault or negligence of ENGINEER, shall be the reason for granting an extension of time for the completion of the aforesaid work. When such delay occurs, ENGINEER shall promptly notify COUNTY in writing of the cause and of the extent of the delay whereupon COUNTY shall ascertain the facts and the extent of the delay and grant an extension of time for the completion of the work when, in COUNTY's judgment, their findings of fact justify such an extension of time.
- 2. COUNTY's findings of fact shall be final and conclusive to the parties hereto. However, this is not intended to deny ENGINEER its' civil legal remedies in the event of a dispute.

# C. Reporting Progress

- 1. As part of the monthly invoice ENGINEER shall submit a progress report in accordance to COUNTY. Progress Reports shall indicate the progress achieved during the previous month in relation to the Schedule of Services. Submission of such progress report by ENGINEER shall be a condition precedent to receipt of payment from COUNTY for each monthly invoice submitted.
- 2. To ensure understanding and performance of the contract objectives, meetings between COUNTY and ENGINEER shall be held as often as deemed necessary. All work objectives, ENGINEER'S work schedule, the terms of the contract and any other related issues will be discussed and/or resolved. ENGINEER shall keep minutes of meetings and distribute copies of minutes as appropriate.

#### D. Evaluation of ENGINEER

ENGINEER'S performance will be evaluated by COUNTY for future reference.

#### **ARTICLE VI • COMPENSATION**

#### A. Work Authorization

ENGINEER shall not commence performance of any work or project services until so directed by the County Project Manager. No payment will be made prior to approval of this contract.

# **B.** Basis of Compensation

1. PROJECT services as provided under this contract and as described in the Scope of Services, shall be compensated for as defined in Exhibit B, Budget, which is attached hereto and incorporated herein by reference. The total amount of the contract is not to exceed Six Hundred-Forty Nine Thousand, Four Hundred and Ten Dollars (\$649,410).

If a contingency budget is provided, COUNTY shall hold such contingency in reserve for unforeseen Extra Work that may arise during the performance of this agreement. Contingency budget shall only be used at the discretion of the COUNTY PROJECT MANAGER, and with prior written authorization by the COUNTY PROJECT MANAGER.

No additional compensation for Extra Work will be paid except upon the issuance of an Extra Work Order by COUNTY.

Prior authorization in writing by the COUNTY PROJECT MANAGER will be required before ENGINEER
enters into any non-budgeted purchase order or subcontract exceeding \$500 for supplies, equipment or
ENGINEER services. ENGINEER shall provide an evaluation of the necessity or desirability of incurring

 such costs.

- 3. For purchase of any item, service or consulting work not covered in ENGINEER'S proposal and exceeding \$500, with prior authorization by the COUNTY PROJECT MANAGER, three competitive quotations shall be submitted with the request, or the absence of bidding shall be adequately justified.
- 4. Any equipment purchased as a result of this contract is subjected to the following: ENGINEER shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$500 or more. If the purchased equipment needs replacement and is sold or traded in, COUNTY shall receive a proper refund or credit. At the conclusion of the contract or if the contract is terminated, ENGINEER may either keep the equipment and credit COUNTY in an amount equal to its fair market value or sell such equipment at the best price obtainable at a public or private sale in accordance with established COUNTY procedures and credit COUNTY in an amount equal to the sales price. If ENGINEER elects to keep the equipment, fair market value shall be determined, at ENGINEER'S expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable by COUNTY, and ENGINEER. If it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by COUNTY and AGENCIES.
- The consideration to be paid ENGINEER, as provided herein, shall be in compensation for all of ENGINEER'S expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.
- 6. In the event of errors or omissions in the plans for PROJECT, ENGINEER shall perform the necessary engineering services required to correct such errors and omissions without additional charge to COUNTY.
- 7. ENGINEER shall be responsible for compliance with Government Code section 7550, if the total cost of the Agreement is over Five Thousand Dollars (\$5,000).

# C. Progress Payments

- 1. ENGINEER shall submit monthly invoices for PROJECT Services in accordance with Exhibit B, Budget.
- ENGINEER shall submit an invoice each month for PROJECT services performed during the preceding
  month. Invoices shall be submitted to the COUNTY PROJECT MANAGER and shall be included with a
  Progress Report covering the same period as the submitted invoice.
- 3. Progress payments will be based on PROJECT services provided and actual costs incurred. Payments

 made prior to the completion of each phase will not exceed the amount allowed in ENGINEER'S cost proposal for the completion of that phase and prior phases, unless approved in writing by the COUNTY PROJECT MANAGER.

- Progress payments will be made as promptly as fiscal procedures will permit upon receipt by the COUNTY PROJECT MANAGER of itemized invoices.
- 5. COUNTY will withhold the last 10 percent of the budget for preparation of PS&E documents. The 10 percent retainage is to be held after 90% of the PS&E phase has been billed and is not to be deducted from each invoice. The amount retained will be paid to ENGINEER after COUNTY has approved ENGINEER's plans, specifications and estimate.

### **ARTICLE VII • GENERAL TERMS**

# A. Law, Venue

- This Agreement has been executed and delivered in the State of California and the validity, enforceability
  and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws
  of the State of California.
- 2. The County of Riverside shall be the venue for any action or proceeding that may be brought or arise out of, in connection with, or by reason of this Agreement.

#### **B.** Severability

If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

#### C. Waiver

Neither the COUNTY'S review, approval of, nor payment for, any of the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement, and ENGINEER shall remain liable to the COUNTY in accordance with this Agreement for all damages to the COUNTY caused by ENGINEER'S failure to perform any of the services furnished under this Agreement to the standard of care of the ENGINEER for its services, which shall be, at a minimum the reasonable standard of care of a civil engineer with extensive experience in offsite roadway and storm drain experience in this region.

# D. Review of Terms

Each Party warrants that it has had the opportunity to consult counsel and understands the terms of this Agreement and the consequences of executing it. In addition, each Party acknowledges that the drafting of this Agreement was the product of negotiation, that no party is the sole author of this Agreement, and that this Agreement shall not be construed against any party as the drafter of this Agreement.

Remainder of Page Intentionally Left Blank
(Signatures on following page)

1	ARTICLE VIII • APPROVALS	
2	COUNTY Approvals	ENGINEER Approvals
3	APPROVED AS TO FORM:	ENGINEER: Albert A. Webb Associates
4	GREGORY P. PRIAMOS, COUNTY COUNSEL	
5	BY:	
6		Dated: <u>//28//5</u>
7	18 Viete Dated: 3/18/15	Soled shell
8	( / / / Marsha L. Victor, Principal Deputy County Counsel	DILESH SHETH, PE, TE
9		Vice President
10	APPROVAL BY THE BOARD OF SUPERVISORS	Viocification
11	-	ENGINEER:
12		
7181	anis Adelegated: APR 07 2015	
14	MARION ASHLEY	Dated: 1/28/15
15	PRINTED NAME	SCOTT HILDEBRANDT, PE
16	Chairman, Riverside County Board of Supervisors	SCOTT HILDEDRANDT, PE
	ATTECT	Senior Vice President
17	ATTEST:	
18		
19	HILL DOUTEN SOUTH APR 0 7 2015	
20	MIMPANION APR 07 2015	
21	KECIA HARPER-IHEM	
22	Clerk of the Board (SEAL)	
23		
24		
25		

# EXHIBIT A East County Detention Center Offsite Improvements

- Construct eastbound right turn lane on Highway 111 approaching Oasis Street.
- Remove existing asphalt pavement and underlying base material in Highway 111, full-width, between the western edge of Smurr Street and the western edge of Arabia Street and install new full-depth asphalt and aggregate base in accordance with Indio standards.
- Construct or replace sidewalk, curb ramps, curb and gutter and cross-gutters on Highway 111 between the western edge of Smurr Street and the western edge of Arabia Street where needed as determined by the City of Indio.
- Submit striping plans and install appropriate pavement striping, pavement legends and traffic signage on Highway 111 between Jackson Street and Monroe Street as approved by the City of Indio.
- Internal circulation patterns may dictate that some of the ECDC exits onto Highway 111 be Right Turn Only. Construction of, or modifications to, the medians in Highway 111 may be necessary, as determined by the City of Indio.
- Modify or replace full Traffic Signals at Oasis/111 and Arabia/111 as determined by the City of Indio.
- Construct regional storm drain improvements on Highway 111 and Oasis Street. Such improvements shall consist of an engineered storm drain line along Highway 111 and Oasis Street, which will end at the retention basin located on the northwest corner of Oasis Street and Dr. Carreon Boulevard, to the satisfaction of the Public Works Director/City Engineer, City of Indio.
- Replace or install landscaping in medians and parkway areas on both sides of Highway 111 from Smurr Street to Arabia Street as determined by the City of Indio. Landscape plans shall be reviewed and approved by the City of Indio.
- Underground the overhead utility lines, remove existing street lights and install new street lights on Highway 111 between the western edge of Arabia Street and the eastern boundary of the ECDC project, or the western edge of Smurr Street, whichever is further east.
- Coordinate with the Indio Water Authority on the installation of new water lines and the relocation of existing water lines.
- Obtain all permits, pay all fees, and comply with city standards as deemed necessary by the City of Indio.
- The traffic study will be completed to City of Indio's satisfaction.

# **East County Detention Center** Effort Breakdown and Budget Exhibit B

Task Description	AL	Total Total
Task 1 - Meetings		
Kickoff meeting including Sub-consultants and agencies	\$	1,000
Project Development Team (PDT) meetings	\$	7,580
Meeting with City of Indio plan check staff and City Traffic Engineer	\$	2,000
providers	\$	2,000
Other meetings - as necessary such as, but not limited to, business owners, Larson Justice Center, and filed reviews	\$	960
Task 2 - Schedule		
Project Schedule	\$	1,500
Task 3- Research and Record Information  Underground & above ground improvements, easements, centerline, right-of-way of		
private property lines  Task 4 - Traffic Analysis	\$	6,580
Traffic Analysis  Traffic Analysis		
Task 5- Hydrology and Hydraulic Report	\$	8,360
Hydrology and hydraulic analysis	-	
	\$	15,980
Review City Master Storm Drain Plan, capacity of existing basin and storm drain  Task 6 - Water Quality Management Plan	\$	4,600
Evaluate project site specific conditions and constraints		48
Task 7 - Surveying and Topographic Mapping	\$	6,200
Aerial Survey		
	\$	19,925
Aerial Survey (Oasis, Plaza, and Dr. Carreon Blvd.) Field Survey	\$	5,360
	\$	12,160
Field Survey (Oasis, Plaza, and Dr. Carreon Blvd.) Utility Coordination	\$	10,720
	\$	10,485
Dry Utility Tasks - Roadway Imp.  Fask 9 - Utility Potholing	\$	8,993
Utility Potholing (30) Provided by Sub-Consultant	\$	36,167
Francis has about showing evicting and the state of the s		
Prepare base sheet showing existing property lines with all right-of-way and easement areas		000
Fask 11 - Title Report	\$	920
EDA will provide title report when needed		
Fask 12 - Preliminary Design, Initial Cost Estimate, and Submittals	\$	190
Storm Drain Alignment and Profile		40.040
Concept Roadway and Landscape Median Plans	\$	16,240
Initial Cost Estimate (proposed roadway, storm drain, traffic signal, signing & striping, and utility relocation)	\$	10,040 2,680
ask 13 - Storm Drain Improvement Plans	100	2,000
Storm Drain Improvement Plans	\$	64,280
ask 14 - Water Quality Management Plan		54,200
Prepare Water Quality Management Plan	\$	10,520
ask 15 - Street Improvement Plans	\$	10,320
Street Improvement Plans	\$	53,640
Street Improvement Plans (Oasis, Plaza, ADA Ramps on Arabia and Dr. Carreon)	\$	28,360

# **East County Detention Center Effort Breakdown and Budget**

Task Description	Total
Task 16 - Traffic Signal Plans	
Prepare Traffic Signal Plans	\$ 20,240
Task 17 - Signing & Striping Plans	
Prepare Signing & Striping Plans	\$ 8,500
Task 18 - Street Light Plans	
Prepare Street Light Plans	\$ 3,380
Task 19 - Legal and Plates	
Prepare legal description, plates deeds, and maps	\$ 2,440
Task 20 - Median Landscape and Hardscape	
Median Landscape and Hardscape	\$ 21,960
Median Landscape and Hardscape (Oasis)	\$ 12,340
Task 21 - Deliverables	
Preparation of Specification	\$ 5,280
Task 22 - Submittals to City, Agencies, Utilities, Etc	
Plan Check Submittal, Process, and Coordination	\$ 5,360
Task 23 - Final Estimate of Quantities and Cost	
Provide a construction quantity and cost estimate	\$ 3,160
Task 24 - Pre-Bid Stage	
Pre-Bid Assistance	\$ 2,000
Task 25 - Bidding Stage	
Bidding Assistance	\$ 2,680
Task 26 - Construction Administration and Management	
Review and Approve Construction submittals and schedules	\$ 3,240
Review and respond to RFI	\$ 4,680
Attend Construction meetings and other required meetings	\$ 5,760
Construction Stage (12 hr/week for CM and 10 hr/week for Coordinator for 48 weeks)	163,280
Post Construction (including as-builts)	\$ 15,520
Task 27 - Additional Meetings and Coordination with Onsite Improvements	
Additional Meetings and Coordination	\$ 22,340
Total	\$ 649,410