

REPORT

DATE ISSUED: June 14, 2007 REPORT NO: HCR 07-56

ATTENTION: Chair and Members of the Housing Commission
For the Agenda of July 13, 2007

SUBJECT: Award of Contract for Exterior Building Improvements at Various PH Sites
(Citywide)

REQUESTED ACTION:

Request the Housing Commission award a construction contract to the lowest responsive bidder in the amount of \$182,096 for exterior building improvements at various public housing sites in the City of San Diego.

STAFF RECOMMENDATION:

- 1) Recommend that the Housing Commission approve the award of a contract to GAMMA Builders, Inc., in the amount of \$182,096 for exterior building improvements at various public housing sites.
- 2) Authorize the President & Chief Executive Officer to execute the contract (Attachment 1) and expend up to a ten percent contingency (\$18,209) if necessary, for items not anticipated in the original scope of work.

BACKGROUND:

The U.S. Department of Housing and Urban Development (HUD) established the Capital Fund program to provide financial assistance to housing authorities to improve the physical condition and upgrade the management and operation of existing public housing projects to assure that such projects continue to be available as affordable housing for eligible residents.

FISCAL CONSIDERATIONS:

Funding for this contract is contained in the Capital Fund Program Grant CA16-P063-501-06 and is included in the FY07 Housing Commission budget previously approved by the Housing Authority on May 2, 2006. No local funds are required.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

The proposed work under this contract generally provides for the replacement of damaged exterior wood trim and exterior painting at eighteen (18) public housing developments, totaling eighty-nine (89) units, located throughout the City of San Diego (Attachment 2). Additional exterior work is on a site specific basis.

On May 8, 2007, an Invitation to Bid was issued for this work. Bid advertisements were placed in the *San Diego Union Tribune*, the *San Diego Daily Transcript*, *La Prensa* and the *Voice and Viewpoint*. In addition, sixty-three (63) invitations were sent as outreach to general contractors.

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On May 22, 2007, a pre-bid conference was conducted with seven (7) firms in attendance. During the bid period a total of fifteen (15) bid packages were provided to interested contractors.

At bid closing on February 27, 2007, six (6) bids were received. Information on the submitted bids is outlined below:

<u>Bidder</u>	<u>Amount</u>	<u>Responsive Bidder</u>	<u>DBE</u>
GAMMA Builders, Inc.	\$182,096	Yes	No
Greyhound Construction, Inc. .	\$189,500	Yes	No
Strong Arm Construction	\$236,000	Yes	No
Cam Painting, Inc.	\$238,000	Yes	Yes
Hammond and Massing General Contractors, Inc.	\$249,885	Yes	No
3-D Construction, Inc.	\$881,000	Yes	No

ENVIRONMENTAL REVIEW:

On or about October 4, 2006, the Housing Commission received written approval of the Request for the Release of Capital Funds for FY06 from HUD, and acknowledging compliance with the applicable provisions of National Environmental Policy Act (NEPA) including, but not limited to, 24 CFR Part 58. Further the Housing Commission was expressly given express written authorization by HUD to incur costs for the Capital Fund Program. The expenditure referenced herein is part of the Capital Fund Program that was reviewed under NEPA and for which expenditure of funds was approved by HUD. The proposal activity is categorically excluded from NEPA as determined by the Responsible Agency, the City of San Diego, on or about September 22, 2006.

Respectfully submitted,


Steve Snyder
Director of Asset Management

Approved by,


Elizabeth C. Morris
President & Chief Executive Officer

- Attachments: 1- Contract
2- List of Sites for Service
3- Workforce Analysis

**EXTERIOR WOOD TRIM REPLACEMENT AND
PAINT EXTERIORS AT VARIOUS SITES**

WITH

**GAMMA BUILDERS, INC.
Contract No. 501-06-9**

THIS AGREEMENT, entered into the ____ day of _____ 2007,

between the Commission:

SAN DIEGO HOUSING COMMISSION
1122 Broadway, Suite 300
San Diego, California 92101
Tel: (619) 231-9400

and the Contractor:

GAMMA BUILDERS, INC.
27068 La Paz, Suite 454
Aliso Viejo, CA 92656
Tel: (949) 525-8835

WITNESSETH, that the Contractor and the Commission for the consideration stated herein mutually agree as follows:

ARTICLE 1. Statement of Work: The Contractor shall furnish all labor, material, equipment and services, and perform and complete all work required for kitchen and bathroom modernization at 2381-2389 Grove Avenue, in strict accordance with the Specifications dated January 16, 2007, Addenda number (1) dated February 9, 2007 and number (2) dated February 20, 2007. Specifications, Addenda and Drawings are incorporated herein by reference and made a part hereof.

ARTICLE 2. The Contract Price: The Commission shall pay the Contractor for all performance of the Contract, in current funds, subject to additions and deductions as provided in the Specifications, the sum of ONE HUNDRED EIGHTY-TWO THOUSAND NINETY-SIX DOLLARS AND NO/100 (\$182,096.00).

ARTICLE 3. Indemnity: Subject to only the limitations of the applicable statutes of limitations as contained within applicable State and Federal law, Contractor agrees to save, indemnify and keep harmless City of San Diego ("the City"), the Commission and the Housing Authority of the City of San Diego ("the Housing Authority"), and each of them (hereinafter collectively referred to as Indemnatee), against any and all liability, claims, fines, penalties, judgments, complaints, causes of action, actions, or demands, including demands arising from injuries to or death of persons (Contractor's employees included) and damage to property, or any other loss, damage or expense, arising directly or indirectly out of the obligations herein undertaken or out of the operations conducted by Contractor including those in part due to the negligence of Indemnatee save and except liability, claims, judgments or demands arising through the sole negligence or sole willful misconduct of Indemnatee or resulting from defects in design furnished by Indemnatee and Contractor will, if requested by Indemnatee, defend any such suits against the Commission, the City/and or the Housing Authority, at the sole cost and expense of Contractor, with counsel of Indemnatee's choosing. This defense and indemnity provision shall not be interpreted as an agreement allowing the

Attachment 1

prevailing party in litigation concerning this Contract to receive attorneys' fees. Further, therefore, the provisions of Civil Code Section 1717 shall not be applicable to this Contract.

ARTICLE 4. Governing Law: This Contract and the obligations of the parties hereunder shall be interpreted, construed and enforced in accordance with the laws of the State of California.

ARTICLE 5. Entire Agreement: This Contract contains the entire agreement between the parties. No variations, modifications, or changes hereto shall be binding upon any party hereto unless set forth in a document duly executed by or on behalf of such party. All prior negotiations, representations and/or agreements between the parties relative to the subject matters hereof shall be superseded hereby and of no further force and effect.

ARTICLE 6. Waiver: No consent or waiver, expressed or implied by either party to or of any breach or default by the other in the performance by the other of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance of such other party hereunder. Failure on the part of either party to complain of any such act of the other party or to declare the other party in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder.

ARTICLE 7. Severability: If any provision of this Contract or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the remainder of this Contract and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforceable to the greatest extent permitted by law.

ARTICLE 8. Terminology: All personal pronouns used in this Contract, whether used in the masculine, feminine, or neuter gender, shall include all other genders; the singular shall include the plural, and vice versa. Titles of paragraphs are for convenience only, and neither limits nor amplifies the provisions of the Contract itself, and all references herein to paragraphs thereof are to this Contract unless specific reference is made to such paragraphs of another document or instrument.

ARTICLE 9. Binding Agreement: Subject to any restrictions on the assignment of this Contract or rights thereto, this Contract shall inure to the benefit of and be binding upon Commission and Contractor and their respective successors, assigns or transferees.

ARTICLE 10. Procedure for Resolving Disputes: In the event of a dispute concerning this Agreement, the same shall be resolved in San Diego Superior Court, Downtown Branch.

ARTICLE 11. Time is of the Essence: Time is of the essence in this Contract, as per the schedule submitted by contractor and agreed upon by owner.

ARTICLE 12. Liquidated Damages: As actual damages for any delay in completion are impossible to determine, the Contractor and his sureties shall be liable for and shall pay to the San Diego Housing Commission monies in accordance with Clause 33 of General Conditions, Section 0102.1 of the Technical Conditions and the Special Conditions at pages 147 and 153 as fixed, agreed and liquidated damages for each calendar day of delay until the work is completed and accepted by the San Diego Housing Commission.

ARTICLE 13. Contract Documents:

This contract shall consist of the following component parts:

- a. This Instrument
- b. General Conditions
- c. Special Conditions
- d. Prevailing Wage Scales
- e. Technical Specifications
- f. Addenda to the Specifications and/or Drawings

Attachment 1

This instrument, together with the other documents enumerated in Article 13, form the Contract and are as fully a part of the Contract as if hereto attached or herein repeated. The various provisions in Addenda shall be construed in the order of preference of the component part of the Contract which each modifies.

ARTICLE 14. Drug-Free Workplace: Contractor shall certify to the Commission that it will provide a drug-free workplace and do each of the following:

A. Publish a statement notifying its employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance as defined in schedules I-V of Section 202 of the Controlled Substance Act (21 U.S.C. 812) is prohibited in Contractor's workplace and specify the actions that will be taken against employees for violation of the prohibition.

B. Establish a drug-free awareness program to inform employees about all of the following:

- 1) The dangers of drug abuse in the workplace.
- 2) The Contractor's policy of maintaining a drug-free workplace.
- 3) Any available drug counseling, rehabilitation and employee assistance programs.
- 4) The penalties that may be imposed upon employees for drug abuse violations.

C. Post the statement required by subdivision 1 in a prominent place at Contractor's main office and at any job site large enough to necessitate an on-site office.

ARTICLE 15. Equal Opportunity Programs: During the performance of this Contract, the Contractor agrees as follows:

A. Contractor shall comply with all applicable Equal Opportunity Programs as described in the applicable State and Federal law. Contractor shall submit such forms and information as shall be requested by the Commission from time to time to verify the Contractor's compliance with applicable law.

B. Certificate of Compliance (attached) with Title VII of the Civil Rights Act of 1964, as amended, the California Fair Employment Practices Act, and any other applicable federal and state law and regulations hereinafter enacted.

C. Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, gender, disability or national origin. Contractor shall ensure that applicants for employment and employees are treated equally without regard to their race, color, religion, ancestry, gender, disability or national origin.

D. If any under representation is found after submission of contractor workforce, the Commission may request an equal employment opportunity plan (EEOP). An acceptable plan to correct the identified underrepresented categories must be submitted within thirty (30) days. Once the EEOP has been approved by the Commission, the Contractor must adhere to said plan. In case of multi-year contracts, the Contractor will be required to submit annual workforce reports and EEOP updates as required.

E. Contractor understands that failure to comply with the above requirements and/or submitting false information in response to these requirements may result in penalties provided for in State and Federal law. In addition, Contractor may, at the election of the Commission, be disbarred from participating in a Commission project for not less than one (1) year.

Attachment 1

ARTICLE 16. Lobbying Provisions: Contractor hereby certifies to the Commission, under penalty of perjury, under the terms of applicable federal law, that at all applicable times before, during and after the term of the Agreement, that:

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or modification of a Federal contract, grant, loan or cooperative agreement;

B. If any funds other than Federal appropriated funds have been paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

C. Contractor will require that the above stated language be included in the award documents for all subawards at all tiers, including subcontracts, subgrants, loans, contracts, and cooperative agreements concerning the subject matter of this Agreement; and,

D. Further, Contractor and all subrecipients, at all times, shall certify compliance with the provisions of 31 USC 1352 and any and all terms and conditions of the Byrd Anti-Lobbying Amendment, as amended from time to time.

ARTICLE 17. Necessary Approvals:

- A. In the event that the initial amount of this Contract equals or exceeds Two Hundred Fifty Thousand Dollars (\$250,000.00), this Contract must be approved by the Housing Authority of the City of San Diego in order to be binding upon the Commission. In no event shall the Commission be bound by this Contract, unless and until such approval is obtained.
- B. In the event that the initial amount of this Contract equals or exceeds One Hundred Thousand Dollars (\$100,000.00), this Contract must be approved by the Board of Commissioners of the Commission in order to be binding upon the Commission. In no event shall the Commission be bound by this Contract, unless and until such approval is obtained

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in original counterparts as of the day and year first above written.

GAMMA BUILDERS, INC.	
By:	
	Signature
	Print Name
Title:	
	License Number

Attachment 1

	[Signatures Continue on Following Page]
	Business Address
	<i>27068 La Paz, Suite 454 Aliso Viejo, CA 92656</i>
SAN DIEGO HOUSING COMMISSION	
By:	
	Signature
	Carrol Vaughan
	Print Name
Title:	Executive Vice President & Chief Operating Officer
	Business Address
	<i>San Diego Housing Commission 1122 Broadway, Suite 300 San Diego, CA 92101</i>

APPROVED AS TO FORM CHRISTENSEN SCHWERDTFEGER & SPATH LLP	
By:	
	Charles B. Christensen, Esq.
	General Counsel
	San Diego Housing Commission
Date:	

Attachment 2

LIST OF SITES FOR SERVICE

Site Address	No. of Units	District
2932 30 th St.	5	3
3012 30 th St.	5	3
3217 30 th St.	5	3
4756 35 th St.	4	3
3617-3619 42 nd St.	4	3
2628-2630 44 th St.	8	3
2716-2718 44 th St.	8	3
3850 Cherokee Ave.	5	3
3125 Ivy St	5	3
4043 Wilson Ave.	5	3
4051 54 th St.	7	4
8637-8643 Glenhaven St	4	6
8649-8655 Glenhaven St	4	6
8661-8667 Glenhaven St	4	6
8701-8707 Glenhaven St.	4	6
8714-8720 Hurlbut St.	4	6
8726-8732 Hurlbut St.	4	6
4286-4292 48 th St.	4	7
Total No. of Units	89	

Name of Firm: Gamma Builders, Inc.

Payroll Ending Date: _____

WORK FORCE REPORT OF SAN DIEGO COUNTY

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- (1) African-American, Black
- (2) Latino, Hispanic, Mexican-American, Puerto Rican
- (3) Asian, Pacific Islander
- (4) American Indian, Eskimo
- (5) Caucasian
- (6) Other ethnicity; not falling into other groups

OCCUPATIONAL CATEGORY	(1) African-American		(2) Latino		(3) Asian Pacific Islander		(4) American Indian		(5) Caucasian		(6) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Executive, Administrative, Managerial									2	1		
Professional Specialty												
Engineers/Architects												
Technicians and Related Support			2						2			
Sales												
Administrative Support/Clerical												
Services												
Precision Production, Craft and Repair												
Machine Operators, Assemblers, Inspectors												
Transportation and Material Moving												
Handlers, Equipment Cleaners, Helpers and Non-construction Laborers*												
TOTALS EACH COLUMN			2						4	1		
DISABLED (by ethnicity & gender)												
GRAND TOTAL OF ALL EMPLOYEES			2						4	1		

NON PROFIT AGENCIES ONLY

President												
Vice President												
Secretary												
Treasurer												
TOTALS EACH COLUMN												