

REPORT

DATE ISSUED: February 19, 2009 REPORT NO: HCR 09-028

ATTENTION: Chair and Members of the Housing Commission  
For the Agenda of March 20, 2009

SUBJECT: Award of Contract for Kitchen & Bathroom Upgrades at Via Las Cumbres  
(District 6)

REQUESTED ACTION:

That the Housing Commission award a construction contract to the lowest responsive bidder in the amount of \$136,800 for kitchen and bathroom upgrades at the Housing Commission site located at 2052-2095 Via Las Cumbres in the City of San Diego.

STAFF RECOMMENDATION:

- 1) Recommend that the Housing Commission approve the award of a contract to Sun Country Builders, Inc., in the amount of \$136,800 for kitchen and bathroom upgrades at the Housing Commission site located at 2052-2095 Via Las Cumbres in the City of San Diego.
- 2) Authorize the President & Chief Executive Officer or designee to execute the contract (Attachment 1) and expend up to a ten percent contingency (\$13,680) if necessary, for items not anticipated in the original scope of work.

BACKGROUND:

The Housing Commission has an ongoing requirement to improve the physical condition of its existing housing stock to assure that such projects continue to be available as affordable housing for eligible residents. The proposed work under this contract generally provides for the removal and replacement of plumbing fixtures, kitchen cabinetry, countertops and bathroom vanities and interior painting in 23 apartments at the 120 unit family housing development located at Via Las Cumbres in the City of San Diego.

FISCAL CONSIDERATIONS:

Funding for this contract is included in the FY09 Housing Commission budget previously approved by the Housing Commission on April 25, 2008 and Housing Authority on June 10, 2008.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On December 31, 2009, an Invitation For Bids 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, One Hundred Fifty-Seven (157) invitations were sent as outreach to general contractors.

On January 13, 2009, a pre-bid conference was conducted with twenty-nine (29) firms in attendance. During the bid period, bid packages were provided to a total of thirty-nine (39) interested contractors and five (5) plan rooms.

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At bid closing on January 29, 2009, nine (9) bids were received. Information on the submitted bids is outlined below:

<u>Bidder</u>	<u>Amount</u>	<u>Responsive Bidder</u>	<u>DBE</u>
Sun Country Builders	\$136,800	Yes	No
Fordyce Construction, Inc.	\$143,000	Yes	No
Teves Construction, Inc.	\$169,145	Yes	No
Marvin Herbert Restoration	\$183,706	Yes	No
Superior Improvements	\$201,632	Yes	No
Strong Arm Construction Co. Inc.	\$207,375	Yes	No
Merz Construction, Inc.	\$237,100	Yes	No
Gibraltar Construction, Inc.	\$241,900	Yes	No
Grondin Construction, Inc.	\$298,700	Yes	No

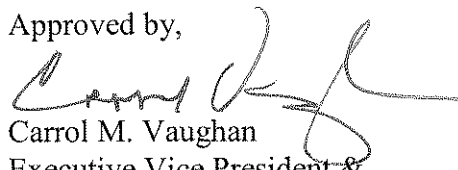
ENVIRONMENTAL REVIEW:

This action is categorically exempt from the provisions of California Environmental Quality Act (CEQA) pursuant to State CEQA Article 19 Guidelines Section 15301 (existing facilities). Processing under the National Environmental Policy Act is not required as no federal funds are implicated in this activity.

Respectfully submitted,

  
Steve Snyder  
Director of Asset Management

Approved by,

  
Carrol M. Vaughan  
Executive Vice President &  
Chief Executive Officer

Attachments: 1- Contract  
2- Workforce Analysis

**KITCHEN AND BATHROOM UPGRADES  
AT VIA LAS CUMBRES**

**WITH**

**SUN COUNTRY BUILDERS  
Contract No. CI-09-9**

THIS AGREEMENT "Contract", entered into the \_\_\_\_ day of \_\_\_\_\_ 2009,

between the Commission:

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

and the Contractor:

**SUN COUNTRY BUILDERS**  
138 Escondido Avenue  
Vista, CA 92084  
Tel: (760) 630-8042

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 upgrades at Via Las Cumbres located in the City of San Diego, in strict accordance with the Specifications dated December 31, 2008 and Addendum number (1) dated January 16, 2009. Specifications and Addenda 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 THIRTY-SIX THOUSAND EIGHT HUNDRED DOLLARS AND NO/100 (\$136,800).

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 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.

## Attachment 1

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 unless specifically incorporated herein.

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 Contract, 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 Commission.

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 136 and 142 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. Addendum 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's 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 Contract; 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.

**[Signatures Continue on Following Page]**

Attachment 1

**SUN COUNTRY BUILDERS**

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

Title: \_\_\_\_\_ 446341  
License Number

**Business Address**

*138 Escondido Avenue  
Vista, CA 92084*

**SAN DIEGO HOUSING COMMISSION**

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Carrol Vaughan  
Print Name

Title: \_\_\_\_\_ Executive Vice President & Chief Operating Officer

**Business Address**

*San Diego Housing Commission  
1122 Broadway, Suite 300  
San Diego, CA 92101*

APPROVED AS TO FORM  
CHRISTENSEN & SPATH LLP

By: \_\_\_\_\_  
Charles B. Christensen, Esq.  
General Counsel  
San Diego Housing Commission

Date: \_\_\_\_\_

Name of Firm: Sun Country Builders.

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	2		
Professional Specialty			2						4			
Engineers/Architects												
Technicians and Related Support									1			
Sales									1			
Administrative Support/Clerical										1		
Services												
Precision Production, Craft and Repair			16									
Machine Operators, Assemblers, Inspectors												
Transportation and Material Moving												
Handlers, Equipment Cleaners, Helpers and Non-construction Laborers*												
TOTALS EACH COLUMN												
DISABLED (by ethnicity & gender)												
<b>GRAND TOTAL OF ALL EMPLOYEES</b>			<b>18</b>						<b>8</b>	<b>3</b>		

**NON PROFIT AGENCIES ONLY**

President												
Vice President												
Secretary												
Treasurer												
TOTALS EACH COLUMN												