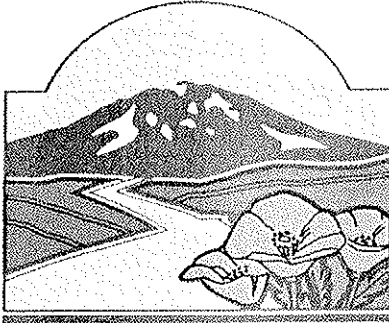


CITY OF
ANDERSON



AGENDA ITEM

June 15, 2010, City Council Meeting

Approved for Submittal By:

Dana Shigley

Dana Shigley, City Manager

To Be Presented By:

Juanita Barnett

Juanita Barnett, City Clerk

To: Honorable Mayor and Members of the Anderson City Council

Through: Dana Shigley, City Manager
Telephone 378-6646

From: Juanita Barnett, City Clerk
Telephone 378-6646

Date: June 15, 2010

SUBJECT

Award contract for CDBG-R/ARRA Grant Administration

RECOMMENDATION

The City Clerk recommends that the City Council:

Authorize the City Manager to enter into an agreement with Adams Ashby Group for a maximum amount of \$74,636, for grant administration and activity delivery for the CDBG-R (ARRA) Grant No. 09-STAR-6382 (Bellevue Waterline).

FISCAL IMPACT

The attached agreement is funded partly from the CDBG-R grant and partly from CDBG Program Income funds. Program Income funds are typically used to make owner-occupied housing rehab loans to residents and small-business expansion loans to local businesses. In order to fully fund this project, as much as \$271,400 of these Program Income funds may be spent over the next two years. The new General Allocation grant provides funding for the owner-occupied housing rehab program, so the impact on that program will be minimal. Depending on revenues, use of Program Income funds may reduce our ability to make new small business expansion loans. However, no other funding sources are available to complete this project.

DISCUSSION and BACKGROUND

Recently we were awarded CDBG-R ARRA Grant No. 09-STAR-6382 in the amount of \$370,340 to extend water service to the Bellevue area.

On May 25, 2010, requests for proposals were sent out to five qualified grant administration firms for management of this grant. By the RFP deadline of June 10, 2010, we had only received one proposal from Adams Ashby Group. After reviewing the proposal, I recommend authorizing the City Manager to enter into an agreement for grant administration and activity delivery to Adams Ashby Group. This firm is currently administering our down payment assistance and owner occupied rehabilitation program under our last General Allocation grant.

As previously discussed at past Council meetings, the grant for the Bellevue Waterline has required much attention. This grant is not funded with typical CDBG funds, but was funded by the American Recovery and Reinvestment Act. As such, this grant has significantly more reporting requirements and regulations to follow than the typical CDBG grant, and thus the administration costs are significant. Because of their experience, I am recommending that we hire Adams Ashby Group to manage this grant. A copy of the proposed agreement is attached.

ATTACHMENT

1. Proposed Agreement for Administration of Grant No. 09-STAR-6382

CITY OF ANDERSON
PROFESSIONAL SERVICES AGREEMENT WITH ADAMS ASHBY GROUP
FOR
THE ADMINISTRATION AND ACTIVITY DELIVERY FOR CDBG-R (ARRA) GRANT NO.
09-STAR-6382 FOR BELLEVUE WATERLINE PROJECT

THIS AGREEMENT ("Agreement"), made and entered into this _____ day of _____, 2010, is by and between the City of Anderson, a California municipal corporation, hereinafter referred to as "City," and Adams Ashby Group, hereinafter referred to as "Consultant."

WITNESSETH:

SECTION 1 - ORGANIZATION AND CONTENTS.

This Agreement is divided into the following Sections:

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SECTION 2 - DESCRIPTION OF PROJECT

City desires to undertake that certain project, hereinafter referred to as “project,” described in **EXHIBIT “A”** entitled “**DESCRIPTION OF PROJECT**” and to engage Consultant to provide the required professional services relating to it.

SECTION 3 - SCOPE OF SERVICES - BASIC; COMPLETION SCHEDULE

Consultant shall perform those basic services in connection with the project as are set forth more particularly in **EXHIBIT “B”** entitled “**SCOPE OF CONSULTANT SERVICES - BASIC; COMPLETION SCHEDULE**” and shall complete said services in accordance with the completion schedule for them incorporated in said Exhibit.

SECTION 4 - SCOPE OF SERVICES - ADDITIONAL; COMPLETION SCHEDULE

It is understood by City and Consultant that it may be necessary, in connection with the project, for Consultant to perform or secure the performance of services other than those set forth in **EXHIBIT “B.”** In each such instance, Consultant shall advise City, in advance and in writing, of the need for such additional services, their cost and the estimated time required to perform them (if appropriate). Consultant shall not proceed to perform any such required additional service until City has determined that such service is beyond the scope of the basic services to be provided, is required, and City has given its written authorization to perform or obtain it. Each additional service so authorized shall constitute an amendment to this Agreement, shall be identified and sequentially numbered as “Additional Consultant Service No. 1” and so forth, shall be subject to all of the provisions of this Agreement, and shall be attached to **EXHIBIT “C”** entitled “**SCOPE OF CONSULTANT SERVICES - ADDITIONAL; COMPLETION SCHEDULE.**”

SECTION 5 - COMPENSATION; PAYMENT OF FEES

Consultant shall be compensated for services rendered to City pursuant to this Agreement in the amounts, manner and in accordance with the payment schedule as set forth in **EXHIBIT “D”** entitled “**COMPENSATION; PAYMENT OF FEES.**” Amounts due to Consultant from City for services rendered shall be evidenced by the submission to City by Consultant of an invoice, prepared in a form satisfactory to City, setting forth the amount of compensation due for the period covered by it. Each such invoice shall be forwarded to City so as to reach it on the 1st day of the month, or other applicable period, for which the services invoiced were provided. All such invoices shall be in full accord with any and all applicable provisions of this Agreement. City will review each such invoice and retain them in accordance

with EXHIBIT "D," provided however that if Consultant submits an invoice which is incorrect, incomplete, or not in accord with the provisions of this Agreement, then City shall not be obligated to process any payment to Consultant until a correct and complying invoice has been submitted.

SECTION 6 - RESPONSIBILITY OF CONSULTANT

By executing this Agreement, Consultant warrants to City that Consultant possesses, or will arrange to secure from others, all of the necessary professional capabilities, experience, resources and facilities necessary to provide to City the services contemplated under this Agreement. Consultant further warrants that Consultant will follow the best current, generally accepted professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding the project for which services are rendered under this Agreement. It is expressly understood by all parties to this Agreement that Consultant makes no guarantee or warranty whatsoever to the success of this project.

SECTION 7 - RESPONSIBILITY OF CITY

To the extent appropriate to the project contemplated by this Agreement, City shall:

7.1 Assist Consultant by placing at Consultant's disposal all available information pertinent to the project, including previous reports and any other data relative to design and construction which may be applicable to it.

7.2 Guarantee access to and make all provisions for Consultant to enter upon public and private property as required for Consultant to perform Consultant services.

7.3 Examine all studies, reports, sketches, drawings, specifications, proposals and other documents prepared and presented by Consultant, and render verbally or in writing as may be appropriate, decisions pertaining thereto, within a reasonable time so as not to delay the progress of the work by Consultant.

7.4 Designate in writing a person to act as City's representative with respect to the work to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define City's policies and decisions with respect to materials, equipment, elements and systems pertinent to Consultant's services.

7.5 Give prompt written notice to Consultant whenever City observes or otherwise becomes aware of any defect in the project.

7.6 Furnish approvals and permits from all governmental authorities having jurisdiction over the project and such approvals and consents from others as may be necessary for completion of the project.

SECTION 8 - INDEMNIFICATION

Consultant shall hold City, its officers, boards and commissions, and members thereof, its employees and agents harmless of and free from any and all liability arising out of or relating to any negligent act or omission of Consultant or Consultant's employees or agents in rendering the services required by this Agreement and shall protect, defend, and indemnify them against such liability and the legal fees and costs incurred by the City in connection therewith.

SECTION 9 - INSURANCE

Any requirements by City that Consultant carry general liability, errors and omissions, or any other type of insurance in connection with the work to be performed and/or services to be rendered by Consultant pursuant to this Agreement shall be as set forth in **EXHIBIT "E,"** entitled **SPECIAL PROVISIONS.**

SECTION 10 - GENERAL PROVISIONS

10.1 Access to Records

Consultant shall maintain all books, records, documents, accounting ledgers, and similar materials relating to work performed for City under this Agreement on file for at least (1) year following the date of final payment to Consultant by City. Any duly authorized representative(s) of City shall have access to such records for the purpose of inspection, audit and copying at reasonable times, during Consultant's usual and customary business hours. Consultant shall provide proper facilities to City's representative(s) for access and inspection. Consultant shall be entitled to reasonable compensation for time and expenses related to such access and inspection activities, which shall be considered to be an additional service to City, falling under the provisions of SECTION 4 hereinabove.

10.2 Assignment

This Agreement is binding to heirs, successors, and assigns of the parties hereto and shall not be assigned by either City or Consultant without the prior written consent of the other.

10.3 Changes to Scope of Work - Basic Services

City may at any time and, upon a minimum of ten (10) days' written notice, modify the scope of basic services to be provided under this Agreement. Consultant shall, upon receipt of said notice, determine the impact on both time and compensation of such change in scope and notify City in writing. Upon agreement between City and Consultant as to the extent of said impacts to time and compensation, an amendment to this Agreement shall be prepared describing such changes. Execution of the amendment by City and Consultant shall constitute the Consultant's notice to proceed with the changed scope.

10.4 Compliance with Laws, Rules, Regulations

All services performed by Consultant pursuant to this Agreement shall be performed in accordance and full compliance with all applicable Federal, State or City statutes, and any rules or regulations promulgated thereunder.

10.5 Conflict of Interest

If City's City Manager has determined that one or several of Consultant's Principal(s) or Project Manager(s) are subject to any provisions of the Anderson Municipal Code relating to conflict of interest, or the provisions of any rules or regulations which may have been promulgated thereunder, then each such person will be required to comply with said provisions in connection with the services they render to the City under this Agreement. City shall advise Consultant of any such provisions prior to the date of execution of this Agreement.

10.6 Exhibits Incorporated

All Exhibits referred to in this Agreement and attached to it are hereby incorporated in it by this reference.

10.7 Independent Contractor

City and Consultant agree that the relationship between them created by this Agreement does not constitute an employer-employee relationship, a partnership or joint-venture relationship of any kind between the City of Anderson and the Consultant. Consultant is not an agent of the City and has no authority to commit the City in any way whatsoever. Consultant shall be solely responsible for the conduct and control of the work performed under this Agreement. Consultant shall be free to render professional consulting services to others during the term of this Agreement, so long as such activities do not interfere with or diminish Consultant's ability to fulfill the obligations established herein to City.

10.8 Integration; Amendment

This Agreement represents the entire understanding of City and Consultant as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered in it. This Agreement may not be modified or altered except by amendment in writing signed by both parties.

10.9 Jurisdiction

This Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be in that state. If any part of this Agreement shall be in conflict with applicable laws, such part shall be inoperative, null, and void insofar as it is in conflict with said laws, but the remainder of the Agreement shall continue to be in full force and effect.

10.10 Notice to Proceed; Progress; Completion

Upon execution of this Agreement by the parties, City shall give Consultant written notice to proceed with the work. Such notice may authorize Consultant to render all of the services contemplated herein, or such portions or phases as may be mutually agreed upon. In the latter event, City shall, in its sole discretion, issue subsequent notices from time to time regarding further portions or phases of the work. Upon receipt of such notices, Consultants shall diligently proceed with the work authorized and complete it within the agreed time period.

10.11 Ownership of Documents

Title to all documents, drawings, specifications, and the like with respect to work performed under this Agreement shall vest with City at such time as City has compensated Consultant, as provided herein, for the services rendered by Consultant in connection with which they were prepared.

10.12 Subcontracts

Consultant shall be entitled, to the extent determined appropriate by Consultant, to subcontract any portion of the work to be performed under this Agreement. Consultant shall be responsible to City for the actions of persons and firms performing subcontract work. The subcontracting of work by Consultant shall not relieve Consultant, in any manner, of the obligations and requirements imposed upon Consultant by this Agreement.

10.13 Term; Termination

The term of this Agreement shall commence upon City's issuance to Consultant of a notice to proceed for all or a portion of the work, as hereinabove provided, and shall end upon City's acceptance and payment for all or such portion of the work as was authorized by such notice, including any and all retentions. Notwithstanding the foregoing, City may, in its sole discretion, terminate this Agreement at any time and for any reason whatsoever by giving at least ten (10) days' prior written notice of such termination to Consultant. In any event, termination of the Agreement is subject to the terms and provisions of **Exhibit "D"** of this Agreement.

10.14 Notices

Any notices required to be given pursuant to this Agreement shall be deemed to have been given by their deposit, postage prepaid, in the United States Postal Service, addressed to the parties as follows:

- a. To City: **Juanita Barnett, City Clerk**
City of Anderson
1887 Howard Street
Anderson, CA 96007
- b. To Consultant: **Lori Adams, Principal**
Ashby Adams Group
770 L Street, Suite 950
Sacramento, CA 95814

Nothing hereinabove shall prevent either City or Consultant from personally delivering any such notices to the other.

SECTION 11 - SPECIAL PROVISIONS

This Agreement shall include all special provisions, if any, as are set forth on **EXHIBIT "E"** entitled **"SPECIAL PROVISIONS."**

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement the day and year first above written.

CITY OF ANDERSON

CONSULTANT

Dana Shigley, City Manager

Lorie Ann Adams, Principal

Date

Date

ATTEST:

Paul Ashby, Principal

Juanita Barnett, City Clerk

Date

APPROVED AS TO FORM:

Michael C. Fitzpatrick, City Attorney

EXHIBIT "A"

DESCRIPTION OF PROJECT

This project consists of the administration and activity delivery for Community Development Block Recovery Grant (CDBG-R) (ARRA) standard agreement no. 09-STAR-6382 for the extension of the City of Anderson's Alexander/Bellevue Waterline Extension project.

EXHIBIT "B"

SCOPE OF SERVICES—BASIC; SCOPE OF SERVICES

The consultant shall be responsible for compliance with all requirements of the CDBG-R (ARRA) Program funding the project and shall include ongoing services as may be required to fulfill the requirements set forth in the CDBG Standard Agreement #09-STAR-6382, for the life of said agreement. Contract services include:

- General Administration duties:
 - Administrative file set-up and two onsite training sessions with staff
 - Administrative review of project prior to State Audit of project
 - Attendance at State Audit with staff

- Activity Delivery duties will include:
 - Bid Documentation required for CDBG and ARRA
 - Pre-Bid Conference
 - Provide booklet for Labor Compliance to contractor and subs
 - Conduct Labor Compliance interviews and audits as required
 - Perform training session with Contractor/staff to ensure compliance with Labor Compliance regulations
 - Prepare annual reports, close out reports, and other ARRA reports as required
 - Address comments and requests from outside agencies regarding Labor Compliance
 - Track project expenditures to ensure expenditure deadlines are managed
 - Attend meetings with project manager and contractor as needed
 - Track project expenditures
 - Plan, coordinate, and attend workshop for homeowners/landowners/tenants to inform of the project and requirements to received grant funds for lateral grants
 - Income qualify homeowners/tenants for lateral grants
 - On-going coordination with City Staff throughout the life of the project

EXHIBIT "C"

SCOPE OF SERVICES—ADDITIONAL; COMPLETION SCHEDULE

No additional services are scheduled at this time.

EXHIBIT "D"

COMPENSATION; PAYMENT OF FEES

Consultant agrees to perform the services described in Exhibit B – Scope of Services for City.
City agrees to compensate Consultant as follows:

At an hourly rate of \$75.00 for each principal and \$55.00 for the CD Assistant, as follows:

Grant Administration:	Not to exceed \$ 3,705.00
Activity Delivery:	Not to exceed \$34,506.00
Program Income Administration:	Not to exceed \$14,100.00
Program Income Activity Delivery:	Not to exceed \$22,325.00

Total agreement not to exceed \$74,636.00

EXHIBIT "E"

SPECIAL PROVISIONS

INSURANCE REQUIREMENTS FOR CONSULTANT

CONSULTANT shall procure and maintain for the duration of the contract insurance against claims and injuries to persons or damages to property which may arise from or in connection with the work hereunder by the CONSULTAANT, his agents, representatives, employees or subcontractors. The cost of such insurance shall be the sole responsibility of the CONSULTANT.

A. Minimum Scope of Coverage:

Insurance shall cover:

1. Professional Liability.
2. Comprehensive General Liability.
3. Automobile Liability.
4. Workers Compensation.

B. Minimum Limits of Insurance:

1. Professional Liability: \$1,000,000 errors and omissions.
2. Comprehensive General Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.
3. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage.
4. Workers Compensation: Limits as set forth in the Labor Code of the State of California.

C. Deductibles:

Any deductibles must be declared to and approved by the City.

D. Other Insurance Provisions:

The Policies must contain the following provisions:

1. General Liability and Automobile Liability Coverage:

- a. The City, its officials, employees and volunteers are to be covered as insureds as respects: liability arising out of activities performed by or on behalf of the CONSULTANT; premises owned, leased, or used by the CONSULTANT; or automobiles owned, leased, hired or borrowed by the CONSULTANT. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees and volunteers.
- b. The CONSULTANT's insurance coverage shall be primary insurance as respects the City, its officials, employees and volunteers. Any insurance maintained by the City, its officials, employees and volunteers shall be excess of CONSULTANT's insurance and shall not contribute with it.
- c. Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City, its officials, employees and volunteers.
- d. Coverage shall state that CONSULTANT's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's liability.

2. Workers Compensation:

The insurer shall agree to waive all rights of subrogation against the City, its officials, employees and volunteers for losses arising from work performed by CONSULTANT for the City.

3. All Coverage:

Each insurance policy required herein shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days advance written notice to City by certified mail, return receipt requested.

E. Acceptability of Insurers:

Insurance shall be placed with insurers admitted to do business in California and with a Best rating of no less than A+.

F. Verification of Coverage:

CONSULTANT shall furnish the City with certificates of insurance coverage with the City named as an additional insured, and with original endorsements affecting coverage as required by this Agreement for General Liability, Professional Liability and Automobile Liability. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The certificates are to be received and approved by the City before work commences.

G. Subcontractors:

CONSULTANT shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.