

City of Garden Grove as Successor Agency to the
Garden Grove Agency for Community Development

INTER-DEPARTMENT MEMORANDUM

To: Matthew Fertal From: Economic Development
Dept: Director
Subject: AWARD OF CONTRACT TO J & G Date: March 13, 2012
INDUSTRIES FOR ASBESTOS
TESTING & ABATEMENT, LEAD
TESTING & ABATEMENT, &
DEMOLITION OF STRUCTURES
AT 12252--12292 HARBOR
BOULEVARD, GARDEN GROVE

OBJECTIVE

It is requested that The City of Garden Grove as Successor Agency to the Garden Grove Agency for Community Development ("Successor Agency") award a contract to J & G Industries, Inc ("Contractor") for asbestos testing, asbestos abatement and demolition of six structures at 12252, 12262, 12272, and 12292 Harbor Boulevard ("Site C").

BACKGROUND/DISCUSSION

On June 14, 2011, the Garden Grove Agency for Community Development and Land & Design, Inc., ("Developer") entered into a Disposition and Development Agreement ("DDA") for the conveyance and development of an upper upscale hotel and a limited service hotel at Site C. Pursuant to the DDA. The Agency is to abate asbestos and lead containing material, and remove above ground structures and all foundations and substructures under existing buildings.

Staff has undertaken numerous efforts to secure all of the structures at Site C as each property was acquired. Recently, all of the structures have been vandalized with the most recent event occurring last week. As a result, staff has now concluded that the properties cannot be safely secured. The structures pose a significant hazard and nuisance to public safety because of the exposure for additional vandalism including arson. Therefore, staff has determined that the demolition should be performed on an emergency basis pursuant to Garden Grove Municipal Code Section 2.50.060(c). J & G Industries was recently awarded a contract for the demolition of site improvements at the Great Wolf site through a public bid process, and is being recommended on the basis of those bid results. The scope of work at Site C will include asbestos testing, lead testing, asbestos

abatement, lead abatement, and demolition of all structures. Landscaping and asphalt removal are not part of this project.

The Contractor is to implement Best Management Practices to reduce or eliminate air and stormwater pollution

FINANCIAL IMPACT

The costs for asbestos abatement and site clearance have been budgeted in the Site C/Harbor Blvd. Package No. 8876 for the current fiscal year.

RECOMMENDATION

Based on the foregoing, staff recommends that the Successor Agency:

- Determine that the demolition and related services should be performed on an emergency basis pursuant to Garden Grove Code Section 2.50.060(c);
- Award a Contract to J & G Industries Inc., in the amount of \$45,000, for the asbestos testing, asbestos abatement, lead testing, lead abatement, and demolition of six structures; and
- Authorize the Successor Agency Director to execute the contract on behalf of the Agency and make minor modifications on behalf of the Successor Agency as needed.



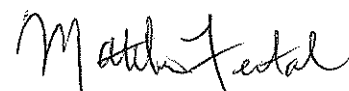
JIM DELLALONGA
Senior Project Manager/Department Administrative Officer



By: Carlos Marquez
Senior Real Property Agent

Attachment 1: Demolition Contract

Recommended for Approval



Matthew Fertal
Director

CONSTRUCTION CONTRACT

THIS CONSTRUCTION CONTRACT (“Agreement”) is made this _____ day of _____, 2012 by the **CITY OF GARDEN GROVE**, as Successor Agency to the Garden Grove Agency for Community Development, a public body, (“Successor Agency”) and **J&G INDUSTRIES, INC.**, here in after referred to as “Contractor”.

RECITALS

- A. Whereas, the Garden Grove Agency for Community Development, (“Agency”) a redevelopment agency existing under Chapter 2 of Community Redevelopment Law, acquired certain real property located at 12222 Harbor Boulevard, 12252 Harbor Boulevard, and 12262 Harbor Boulevard, located in the City of Garden Grove, (the “Property”) for redevelopment purposes.
- B. Whereas, the Agency and Land and Design Inc., a California corporation (“Developer”), entered into a Disposition and Development Agreement on June 28, 2011 (“DDA”) for the sale of the Property to the Developer and for the construction of upscale and limited service hotels.
- C. Whereas, on August 23, 2011, the Agency, pursuant to Health and Safety Code Section 34169(g), adopted Resolution No. 705 approving the Agency’s Enforceable Obligation Schedule, which listed all of the Agency’s obligations for the which tax increment revenue would be allocated to pay in the event of Agency dissolution.
- D. Whereas, on September 13, 2011, pursuant to Health and Safety Code Section 34169(h) the Agency adopted Resolution No. 706 approving an Initial Recognized Obligation Payment Schedule (IROPS) and transmitting the schedule to the City of Garden Grove.
- E. Whereas, the DDA was identified as an Agency Enforceable Obligation.
- F. Whereas, pursuant to ABX1-26 and the State of California Supreme decision in California Redevelopment Association vs. Matosantos, redevelopment agencies in California, including the Agency were dissolved as of February 1, 2012.
- G. Whereas, on January 17, 2012, the City of Garden Grove has elected to be the successor agency to the Agency and accepted transmittal of IROPS from the Agency.
- H. Whereas, pursuant to Section 301.2(b) of the DDA, Agency is to demolish and remove all existing structures and improvements including foundations in compliance with all applicable federal, state, and local laws and regulations.
- I. Whereas, the Property is currently vacant and has been vandalized. Moreover, the Property is accessible to the general public and considered a public nuisance. The structures are considered dangerous in accordance with the provisions set forth in the Uniform Housing Code as adopted by the City of Garden Grove and must be demolished as soon as possible.
- J. Whereas, SUCCESSOR AGENCY desires to utilize the services of CONTRACTOR to conduct asbestos testing and abatement, lead testing and abatement, and demolition of structures at the Property.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term and Termination.** The term of the Agreement shall be for period of **three hundred sixty five (365) calendar days from full execution** of the Agreement or completion of the project which ever occurs first. This agreement may be terminated by the SUCCESSOR AGENCY without cause. In such event, the SUCCESSOR AGENCY will compensate CONTRACTOR for work performed to date in accordance with the Proposal incorporated herein by reference as Attachment "A". Contractor is required to present evidence to support performed work completion.
2. **Services to be Provided.** The services to be performed by CONTRACTOR shall consist of tasks as set forth in the Proposal. The Proposal and this Agreement do not guarantee any specific amount of work.
3. **Compensation.** CONTRACTOR shall be compensated as follows:
 - 3.1 **AMOUNT.** Compensation under this agreement shall be the Not To Exceed (NTE) amount of **Forty Five Thousand Dollars (\$45,000.00)**, in arrears and in accordance with proposal in Attachment A.
 - 3.2 **Payment.** For work under this Agreement, payment shall be made per invoice for work completed. For extra work not a part of this Agreement, a written authorization by SUCCESSOR AGENCY will be required, and payment shall be based on schedule included in Proposal (Attachment A).
 - 3.3 **Records of Expenses.** CONTRACTOR shall keep complete and accurate records of all costs and expenses incidental to services covered by this Agreement. These records will be made available at reasonable times to SUCCESSOR AGENCY.
 - 3.4 **Termination.** SUCCESSOR AGENCY and CONTRACTOR shall have the right to terminate this agreement, without cause, by giving thirty (30) days written notice of termination. If the Agreement is terminated by SUCCESSOR AGENCY, then the provisions of paragraph 3 would apply to that portion of the work completed.
4. **Insurance requirements.**
 - 4.1 **COMMENCEMENT OF WORK.** CONTRACTOR shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the City of Garden Grove and SUCCESSOR AGENCY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the City of Garden Grove and SUCCESSOR AGENCY of any material change, cancellation, or termination at least thirty (30) days in advance.
 - 4.2 **WORKERS COMPENSATION INSURANCE.** During the duration of this Agreement, CONTRACTOR and all subcontractors shall maintain Workers Compensation Insurance in the amount and type required by law, if applicable.

4.3 INSURANCE AMOUNTS. CONTRACTOR shall maintain the following insurance for the duration of this Agreement:

- (a) Commercial general liability in an amount of \$1,000,000.00 per occurrence: **claims made and modified occurrence policies are not acceptable**); Insurance companies must be acceptable to SUCCESSOR AGENCY and have a Best's Guide Rating of A-Class VII or better, as approved by the SUCCESSOR AGENCY.
- (b) Automobile liability in an amount of \$1,000,000.00 per occurrence. Insurance companies must be acceptable to CITY/AGENCY and have a Best's Guide Rating of A-Class VII or better, as approved by the SUCCESSOR AGENCY.
- (c) Professional liability in an amount of \$1,000,000.00 per occurrence. Insurance companies must be acceptable to SUCCESSOR AGENCY and have a Best's Guide Rating of A-Class VII or better, as approved by the SUCCESSOR AGENCY.

An **On-Going and Completed Operations Additional Insured Endorsement** for the policy under section 4.3 (a) shall designate City of Garden Grove, SUCCESSOR AGENCY, it's officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONTRACTOR. CONTRACTOR shall provide to the City of Garden Grove, SUCCESSOR AGENCY proof of insurance and endorsement forms that conform to City of Garden Grove's and SUCCESSOR AGENCY'S requirements, as approved by the City of Garden Grove and SUCCESSOR AGENCY.

An Additional Insured Endorsement for the policy under section 4.3 (b) shall designate City of Garden Grove, SUCCESSOR AGENCY, it's officers, officials, employees, agents, and volunteers as additional insureds for automobiles, owned, leased, hired, or borrowed by the CONTRACTOR. CONTRACTOR shall provide to City of Garden Grove and SUCCESSOR AGENCY proof of insurance and endorsement forms that conform to City of Garden Grove and SUCCESSOR AGENCY'S requirements, as approved by the City of Garden Grove and SUCCESSOR AGENCY.

For any claims related to this Agreement, CONTRACTOR's insurance coverage shall be primary insurance as respects City of Garden Grove, SUCCESSOR AGENCY, it's officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the City of Garden Grove, SUCCESSOR AGENCY, it's officers, officials, employees, agents, and volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.

5. **Non-Liability of Officials and Employees of the SUCCESSOR AGENCY and City of Garden Grove.** No official or employee of City of Garden Grove and SUCCESSOR AGENCY shall be personally liable to CONTRACTOR in the event of any default or breach by City of Garden Grove and SUCCESSOR AGENCY, or for any amount which may become due to CONTRACTOR.

6. **Non-Discrimination.** CONTRACTOR covenants there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.
7. **Independent Contractor.** It is agreed to that CONTRACTOR shall act and be an independent contractor and not an agent or employee of the SUCCESSOR AGENCY, and shall obtain no rights to any benefits which accrue to SUCCESSOR AGENCY'S employees.
8. **Compliance with Law.** CONTRACTOR shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.
9. **Notices.** All notices shall be personally delivered or mailed to the below listed address, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.

a. (Contractor)
 J&G Industries, Inc.
 7511 Suzi Lane
 Westminster, CA 92683

<p>b. (Address of Successor Agency) City of Garden Grove 11222 Acacia Parkway Garden Grove, CA 92840 Attention: Carlos Marquez</p>	<p>(with a copy to): Garden Grove City Attorney 11222 Acacia Parkway Garden Grove, CA 92840</p>
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10. **CONTRACTOR'S PROPOSAL.** This Agreement shall include CONTRACTOR'S proposal or bid which shall be incorporated herein by reference. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.
11. **Licenses, Permits, and Fees.** At its sole expense, CONTRACTOR shall obtain a Garden Grove Business License, all permits, and licenses as may be required by this Agreement.
12. **Familiarity with Work.** By executing this Agreement, CONTRACTOR warrants that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the facilities, difficulties, and restrictions of the work under this Agreement. Should Contractor discover any latent or unknown conditions materially differing from those inherent in the work or as represented by SUCCESSOR AGENCY, it shall immediately inform SUCCESSOR AGENCY of this and shall not proceed, except at CONTRACTOR'S risk, until written instructions are received from SUCCESSOR AGENCY.
13. **Time of Essence.** Time is of the essence in the performance of this Agreement.
14. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability, and reputation of CONTRACTOR, its principals and employees were a substantial inducement for SUCCESSOR AGENCY to enter into this Agreement. CONTRACTOR shall not contract with any other entity to perform the services required without written approval of the SUCCESSOR AGENCY. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of SUCCESSOR AGENCY. If CONTRACTOR is permitted to subcontract any part of this Agreement, CONTRACTOR shall be responsible to SUCCESSOR AGENCY for

the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and SUCCESSOR AGENCY. All persons engaged in the work will be considered employees of CONTRACTOR. SUCCESSOR AGENCY will deal directly with and will make all payments to CONTRACTOR.

15. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.

16. **Prevailing Wages.** The SUCCESSOR AGENCY has been advised that the Prevailing Wages Law applies to the work. CONTRACTOR shall be responsible for CONTRACTOR's compliance in all respects with the prevailing wage rates to all the laborers involved, and with California Labor Code Section 1770 et seq., including the keeping of all records required by the provisions of Labor Code Section 1776 and the implementing administrative regulations. The SUCCESSOR AGENCY shall be a third party beneficiary of the forgoing covenant with rights to enforce the same as against the CONTRACTOR.

17. **Indemnification.** CONTRACTOR agrees to protect, defend, and hold harmless SUCCESSOR AGENCY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, arising out of, or in any way connected with performance of the Agreement by CONTRACTOR, CONTRACTOR'S agents, officers, employees, subcontractors, or independent contractors hired by CONTRACTOR. The only exception to CONTRACTOR'S responsibility to protect, defend, and hold harmless SUCCESSOR AGENCY, is due to the sole negligence of SUCCESSOR AGENCY, or any of its elective or appointive boards, officers, agents, or employees.

This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONTRACTOR.

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(Agreement Signature Block On Next Page)

IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

"SUCCESSOR AGENCY"
CITY OF GARDEN GROVE, as Successor
Agency to the Garden Grove Agency for
Community Development, a public body

By: _____
Director

ATTESTED:

Secretary

Date: _____

"CONTRACTOR"
J&G INDUSTRIES, INC., a California
corporation

By: _____

Name: _____

Title: _____

Date: _____

Tax ID No. _____

Contractor's License: _____

Expiration Date: _____

If CONTRACTOR is a corporation, a Corporate
Resolution and/or Corporate Seal is required. If a
partnership, Statement of Partnership must be
submitted to CITY.

APPROVED AS TO FORM:

Legal Counsel

Date