

April 25, 2012

Page 2

FINANCIAL IMPACT

The cost for the electrical work has been budgeted for the Water Park project.

RECOMMENDATION

Staff recommends that the Oversight Board:

- Approve a contract awarded by The City of Garden Grove as Successor Agency to the Garden Grove Agency to Community Development to Williams and Maher, Inc., in the amount of Thirty One Thousand One Hundred Ninety Three Dollars and Forty Cents (\$31,193.40) for the relocation of the electrical meter and installation of the necessary conduit.




GREG BLODGETT
Senior Project Manager

By: Carlos Marquez
Senior Real Property Agent

Attachment 1: Contract
Attachment 2: Map

Recommended for Approval



Matthew Fertal
Director

CONSTRUCTION CONTRACT

THIS AGREEMENT is made this _____ day of _____, 2012, by the **CITY OF GARDEN GROVE AS SUCCESSOR AGENCY TO THE GARDEN GROVE AGENCY FOR COMMUNITY DEVELOPMENT** ("SUCCESSOR AGENCY"), and **WILLIAMS AND MAHER, INC.**, a corporation, here in after referred to as "CONTRACTOR".

RECITALS

- A. The Garden Grove Agency for Community Development, ("Agency") a redevelopment agency formerly existing under Chapter 2 of the Community Redevelopment Law (California Health and Safety Code Section 33000 *et seq.*), acquired certain real property located at 12601 Leda Lane, 12602 Leda Lane, 12581 Harbor Boulevard, 12591 Harbor Boulevard, 12625 Harbor Boulevard, and 12721 Harbor Boulevard, located in the City of Garden Grove, (the "Property") for redevelopment purposes.
- B. The Agency and Garden Grove MXD, LLC, a Colorado corporation ("Developer"), entered into a Disposition and Development Agreement on May 12, 2009 and a subsequent First Amended and Restated Disposition and Development Agreement on April 13, 2010 (together, "DDA") establishing the terms and conditions for the disposition of the Property to the Developer and the development of a water park hotel project.
- C. Pursuant to ABX1-26 and the State of California Supreme Court decision in *California Redevelopment Association vs. Matosantos*, redevelopment agencies in California, including the Agency, were dissolved as of February 1, 2012.
- D. Pursuant to the provisions of ABX1-26, including but not limited to Health and Safety Code Section 34173, the SUCCESSOR AGENCY is the successor entity to the Agency.
- E. 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 (EOPS), which lists all of the Agency's enforceable obligations pursuant to ABX1-26.
- F. 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).
- G. On January 17, 2012, the Agency adopted Resolution No. 708-12 adopting an amended EOPS and an amended IROPS and transmitting the amended schedules to the SUCCESSOR AGENCY.
- H. The DDA is identified as an Agency Enforceable Obligation pursuant to the EOPS and IROPS.
- I. On or about April 10, 2012, the Oversight Board to the SUCCESSOR AGENCY ("Oversight Board") approved and affirmed the DDA as a Recognized Obligation on the Recognized Payment Obligation Schedule (ROPS) prepared by the SUCCESSOR AGENCY.

- J. Pursuant to the DDA, the SUCCESSOR AGENCY is required to make and/or facilitate certain onsite and offsite improvements relating to the Property.
- K. The improvements for which SUCCESSOR AGENCY is responsible include the removal of two Southern California Edison ("SCE") utility poles located along the northernmost property line, which currently provide electrical service to both the former Humdinger Bar building, located on the Property, as well as to the Flor Blanca Restaurant building, located at 12571 Harbor Boulevard, Garden Grove (the "Adjacent Property").

In order to prevent interruption of electrical service to the Adjacent Property due to removal of the SCE utility poles on the Property, it is necessary for SUCCESSOR AGENCY to have SCE install a new utility pole on the Adjacent Property to provide electrical service to the Flor Blanca Restaurant building and to make certain related improvements to the Adjacent Property to facilitate the provision of electrical service to the Flor Blanca Restaurant building, including relocation of the electrical meter located within the Flor Blanca Restaurant to the rear of the Adjacent Property, next to the other electrical meters, installation of electrical conduit from the relocated electrical meter to the Flor Blanca Restaurant, and removal of the existing weatherhead that protrudes onto the Property.

- L. SUCCESSOR AGENCY desires to utilize the services of CONTRACTOR to furnish all labor, materials, and equipment to install electrical conduit from the relocated electrical meter to the Flor Blanca Restaurant and to remove the existing weatherhead that protrudes onto the Property .
- M. WHEREAS, the SUCCESSOR AGENCY is authorized to enter into this Agreement pursuant to ABX1-26 and SUCCESSOR AGENCY Board Resolution No. 1-12, adopted February 14, 2012.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term and Termination.** The term of this Agreement shall commence upon full execution of this Agreement and continue for period of **sixty (60) calendar days** from the date SUCCESSOR AGENCY provides CONTRACTOR with a written notice to proceed with the work or completion of the work, whichever occurs first. This Agreement may be terminated by the SUCCESSOR AGENCY without cause. In such event, the CITY will compensate CONTRACTOR for work performed to date in accordance with fee schedule (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 is incorporated herein by reference. The Proposal and this Agreement do not guarantee any specific amount of work. CONTRACTOR shall not commence any work until it receives a written notice to proceed from SUCCESSOR AGENCY.
3. **Compensation.** CONTRACTOR shall be compensated as follows:

- 3.1 AMOUNT. Compensation under this agreement shall be the Not To Exceed (NTE) amount of **Thirty One Thousand One Hundred Ninety Three Dollars and Forty Cents (\$31,193.40)**, 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 agreed upon in writing by SUCCESSOR AGENCY.
- 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 SUCCESSOR AGENCY and the City of Garden Grove (the "CITY"). All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the SUCCESSOR AGENCY and CITY 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 \$2,000,000.00 per occurrence: **claims made and modified occurrence policies are not acceptable**); Insurance companies must be acceptable to SUCCESSOR AGENCY and CITY and have a Best's Guide Rating of A- Class VII or better, as approved by the SUCCESSOR AGENCY and CITY.
 - (b) Automobile liability in an amount of \$1,000,000.00 per occurrence. Insurance companies must be acceptable to SUCCESSOR AGENCY/CITY and have a Best's Guide Rating of A- Class VII or better, as approved by the SUCCESSOR AGENCY and CITY.
 - (c) Professional liability in an amount of \$1,000,000.00 per occurrence. Insurance companies must be acceptable to

SUCCESSOR AGENCY and CITY and have a Best's Guide Rating of A-Class VII or better, as approved by the SUCCESSOR AGENCY and CITY.

An **On-Going and Completed Operations Additional Insured Endorsement** for the policy under section 4.3 (a) shall designate the SUCCESSOR AGENCY, CITY, 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 SUCCESSOR AGENCY and CITY proof of insurance and endorsement forms that conform to SUCCESSOR AGENCY'S and CITY's requirements, as approved by the SUCCESSOR AGENCY and CITY.

An Additional Insured Endorsement for the policy under section 4.3 (b) shall designate SUCCESSOR AGENCY, CITY, 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 proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

For any claims related to this Agreement, CONTRACTOR's insurance coverage shall be primary insurance as respects SUCCESSOR AGENCY, CITY, it's officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the SUCCESSOR AGENCY'S, CITY, 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**. No official or employee of SUCCESSOR AGENCY and CITY shall be personally liable to CONTRACTOR in the event of any default or breach by SUCCESSOR AGENCY and CITY, 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)
Williams and Maher, Inc.
1406 S. Ritchey Street, Unit E
Santa Ana, CA 92705

b. (Address of City) (with a copy to):
City of Garden Grove Garden Grove City Attorney
Attention: Carlos Marquez 11222 Acacia Parkway
11222 Acacia Parkway Garden Grove, CA 92840
Garden Grove, CA 92840

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 CITY 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 and CITY, is due to the sole negligence of SUCCESSOR AGENCY and CITY, 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.

18. **Agreement Limitations.** CONTRACTOR understands and agrees that the implementation and effectiveness of this Agreement shall be subject to approval by the SUCCESSOR AGENCY Oversight Board and all provisions of ABX1-26. CONTRACTOR further understands and agrees that any and all liability under this Agreement shall be solely that of the SUCCESSOR AGENCY, and not that of the City of Garden Grove, and, in accordance with Health and Safety Code Section 34173(e), shall be limited in scope and amount to the actual property tax revenues received by, and the value of assets transferred to, the SUCCESSOR AGENCY pursuant ABX1-26.

(Agreement Signature Block On Next Page)

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

Date: _____

"SUCCESSOR AGENCY"

**CITY OF GARDEN GROVE AS SUCCESSOR
AGENCY TO THE GARDEN GROVE
AGENCY FOR COMMUNITY
DEVELOPMENT, a public body**

By: _____
Director

ATTESTED:

Secretary

APPROVED AS TO FORM:

Successor Agency Counsel

Date: _____

"CONTRACTOR"

WILLIAMS AND MAHER, INC.

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.

Attachment A

WILLIAMS & MAHER ,INC

1406 S.RITCHEY ST.
 UNIT " E "
 SANTA ANA , CA. 92705
 ffjmaher@sbcglobal.net

QUOTE

Date	JOB #
4/3/2012	1

BILL TO
CITY OF GARDEN GROVE ATTN:PURCHASING-SANDRA SEGAWA 11222 ACACIA PARKWAY GARDEN GROVE, CA 92840

JOB LOCATION
RESTURANT GARDEN GROVE, CA. CARLOS MERQUEZ

P.O. No.
10-2385

Description OF WORK	DATE	NAME	Total
1]SUPPLY AND INSTALL 400A. 120/240V. SINGLE PHASE SWITCH BOARD WITH 350A. T FUSES . 4" GALV. RIGID RISER WITH 3 - 500MCM CU WIRES TO SERVICE HEAD . GROUND TO CODE. POUR CONCRETE PAD.			
2]RUN 2 - 3" CONDUIT FROM POLE 4733601E TO INTERCEPT POINT.SAW CUT AND REMOVE ASPHALT,TRENCH , BACK FILL AND COMPACT ,INSTALL BLACK CONCRETE OVER TRENCH.			
3]SUPPLY AND INSTALL 3" SCH.80 CONDUIT ON ROOF TO EXISTING FLOR BLANCA PANEL. RUN 3 - 500MCM AND 1/0 GROUND COPPER WIRES.			
4] REMOVE EXISTING WEATHER HEAD FROM SIDE OF BUILDING.			
MATERIAL	1	16,960.00	16,960.00T
PERMIT	1	500.00	500.00
Subtotal			17,460.00
Markup 15%		15.00%	2,619.00
Subtotal			20,079.00
ELECTRICIAN	100	60.00	6,000.00
APPRENTICE	100	38.00	3,800.00
Sales Tax		7.75%	1,314.40
Total			\$31,193.40

Phone #	714-835-5011
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