

Revision to ASR and/or Exhibits/Attachments

Date: May 18, 2012

To: Susan Novak, Clerk of the Board of Supervisors

Cc: Alisa Drakodaidis, County Executive Office

From: Ignacio G. Ochoa, P.E., Interim Director/Chief Engineer, OC Engineering

ASR Control #(s): 12-000292 Agenda Item(s) # 77 for the May 22, 2012 Board Meeting

Subject: Award Construction Contract: Haster Project

Explanation:

Revise the ASR to include an Acquisition Contract and Quitclaim Deed from the City of Garden Grove for property needed for the Project, as approved by the Garden Grove City Council on May 8, 2012.

Replace **RECOMMENDED ACTIONS** with the following:

Acting as the Board of Supervisors of the Orange County Flood Control District:

9. ~~Authorize the Auditor/Controller to transfer funds from OC Parks Capital Projects Fund 406 to OC Flood Fund 400 for costs approved in advance by the OC Parks Director or his designee, for reimbursement of: a) the Recreational Field related construction costs in an amount not to exceed \$2,530,705; b) Recreational Field related administrative costs in an amount not to exceed \$100,000; and c) Recreational Field related construction change order costs in an amount not to exceed \$250,000. Approve the Acquisition Contract with Quitclaim Deed attached with the City of Garden Grove for property required for the Project and return an executed copy to OC Public Works Real Estate Services.~~

10. Authorize the Chair of the Board to accept the Quitclaim Deed from the City of Garden Grove upon delivery by OC Public Works and return Deed to OC Public Works for recording.

Acting as the Board of Supervisors of the County of Orange:

11. Authorize the Auditor/Controller to transfer funds from OC Parks Capital Projects Fund 406 to OC Flood Fund 400 for costs approved in advance by the OC Parks Director or his designee, for reimbursement of: a) the Recreational Field-related construction costs in an amount not to exceed \$2,530,705; b) Recreational Field-related administrative costs in an amount not to exceed \$100,000; and c) Recreational Field-related construction change order costs in an amount not to exceed \$250,000.

Make modifications to:

SUMMARY: Replace paragraph with the following:

Awarding of the construction contract for the Haster Retarding Basin, Pump Station, and Recreational Field Project to Shimmick Construction Inc. in the amount of \$25,167,119; approving the Proposition 1E Grant Agreement to receive the Project reimbursement funding in the amount of \$15,677,100; approving the Engineering Support Services Agreement Amendment with AKM Consulting Engineers increasing the sum by \$1,200,000 for a revised total contract amount not to exceed \$2,927,000; authorizing OC Public Works to expedite the Request for Proposal for construction management and inspection services process representing a deviation from the County Contract Policy for Architect-Engineer Firms; approving the Acquisition Contract and Quitclaim Deed with the City of Garden Grove for property required for the Project; and authorizing execution of grant and contract as well as the transfer of funds, will collectively support increased flood protection and additional recreational opportunities.

BACKGROUND INFORMATION: Replace second to last paragraph in the background with the following.

Project risk issues at this time, include the outstanding approval of the Project's 404 permit from the U.S. Army Corps of Engineers; however, with the assistance of your Board permit negotiations with the Corps have been progressing and permit approval is anticipated in the near future.

~~which is anticipated to be approved within the next several weeks. A new requirement for a conservation easement over the mitigation area has been initially discussed and staff is negotiating with the Army Corps alternative requirements.~~

Replace last paragraph before the Compliance with CEQA statement with the following:

~~A 0.41-acre parcel and a 1,120 square foot area parcel owned by the City of Garden Grove are proposed to be used for the Project. is required to maximize the area available for the Recreational Field. OC Public Works is working closely with the City of Garden Grove to quitclaim the parcel to the OCFCD at no cost. OC Public Works will return to your Board for approval of the quitclaim deed for the parcel upon City Council approval.~~

The City agreed to quitclaim the parcels to OCFCD without monetary compensation because the City will benefit from the Project. The Acquisition Contract and Quitclaim Deed were approved by the Garden Grove City Council on May 8, 2012.

Add the following after the Compliance with CEQA statement:

General Plan Conformity: Pursuant to Government Code Section 65402, this project is in conformance with the City of Garden Grove's General Plan.

Hazardous Materials Assessment: A Hazardous Materials Assessment has been completed by OC Public Works which revealed no evidence of environmental degradation to the property from hazardous materials contamination.

Add new Attachment (attached)

Attachment C – Acquisition Contract

Attachment C

Project No.: C05B02
Project: Haster Pump Station
Parcel Nos.: 1510 and 1511

ACQUISITION CONTRACT

THIS CONTRACT is made _____, 20__, by and between CITY OF GARDEN GROVE, a municipal corporation, hereinafter referred to as "GRANTOR," and ORANGE COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic, hereinafter referred to as "DISTRICT," without regard to number or gender. GRANTOR and DISTRICT shall sometimes hereinafter individually be referred to as "PARTY" or jointly as "PARTIES."

RECITALS

- A. DISTRICT owns that certain real property situated within the city of Garden Grove known as Haster Basin, a flood control facility (No. C05B02).
- B. GRANTOR owns that certain real property contiguous to Haster Basin designated on DISTRICT records as Parcel Nos. 1510 and 1511, hereinafter collectively referred to as the "PROPERTY," which is shown and described in a copy of the Quitclaim Deed attached hereto as Attachment 1.
- C. DISTRICT intends to construct certain public improvements commonly referred to as the Haster Retarding Basin Pump Station and Recreational Field Project (the "PROJECT"). The PROJECT includes the construction of certain park and recreational improvements on Haster Basin and the PROPERTY, which will benefit GRANTOR and its residents.
- D. In consideration for DISTRICT's construction of the PROJECT and GRANTOR's intended future use of the park and recreational improvements to be constructed as part of the PROJECT, GRANTOR desires to donate the PROPERTY to DISTRICT, and DISTRICT desires to accept the donation of the PROPERTY from GRANTOR.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, DISTRICT and GRANTOR agree as follows:

1. CONVEYANCE OF PROPERTY

Subject to and in accordance with the terms and conditions hereinafter set forth, GRANTOR agrees to convey to DISTRICT all of GRANTOR's right, title, and interest in and to the PROPERTY, upon full execution of this CONTRACT, by Quitclaim Deed substantially in the form attached hereto as Attachment 1. The executed Quitclaim Deed shall be delivered to Sergio Mora, Real Property Agent for the County of Orange, OC Public Works/Real Estate Services.

Attachment C

2. CONSIDERATION

It is mutually understood and agreed by and between the PARTIES hereto that GRANTOR's conveyance of the PROPERTY is in consideration of DISTRICT's future development and construction of park and recreational improvements pursuant to the PROJECT and GRANTOR's intended future use of such constructed park and recreational improvements. It is further understood and agreed as follows:

- A. DISTRICT shall be responsible for any installment of General and Special County and City Taxes, if applicable, allocable to a period subsequent to the time title is vested in, or actual possession or physical possession is taken by DISTRICT, whichever first occurs, and all taxes subsequent thereto.
- B. GRANTOR shall remain liable for payment of any taxes allocable to a period prior to the time title is vested in, or actual possession or physical possession is taken by DISTRICT, whichever first occurs, pursuant to the provisions of Sections 5084 and 5086 of the California Revenue and Taxation Code, as amended.

3. TRANSFER DISCLOSURE

GRANTOR has provided DISTRICT with an executed Real Estate Transfer Disclosure Statement concurrent with the execution of this CONTRACT by GRANTOR.

4. AS-IS ACQUISITION; DISTRICT'S DUE DILIGENCE RIGHTS

- A. DISTRICT acknowledges that it will be given an adequate opportunity to conduct such investigations, tests, and studies (collectively "Investigations") of the PROPERTY as DISTRICT may deem necessary and desirable. DISTRICT further acknowledges that it is acquiring the PROPERTY in its "AS IS" condition, and, except as otherwise expressly provided in this CONTRACT and except as required to be disclosed or otherwise action taken pursuant to federal, state or local laws and regulations, GRANTOR makes no representation or warranty of any kind as to the physical condition of the PROPERTY or in connection with any matter, report or information relating to the condition of the PROPERTY, its value, fitness, use, zoning, entitlements, moratoriums, economic feasibility, developability or any other matter relating to DISTRICT's proposed use or development of the PROPERTY.
- B. Prior to recording the Quitclaim Deed and taking possession of the PROPERTY, DISTRICT shall be entitled to conduct Investigations of the PROPERTY as DISTRICT may deem necessary and desirable, all at DISTRICT's sole cost. Immediately after performing any such Investigations, DISTRICT shall restore the PROPERTY to the same condition as existed prior to performing such Investigations, including, without limitation, recompaction or removal of any disrupted soil or material as GRANTOR may reasonably direct. DISTRICT hereby indemnifies, defends and holds GRANTOR harmless from any and all losses, damages, costs, liabilities and expenses, including, without limitation, reasonable attorneys' fees (and those fees incurred upon any appeals) and court costs incurred or suffered by GRANTOR, whether directly or proximately, by the act or omission of DISTRICT or DISTRICT's representatives during its Investigations of the PROPERTY.
- C. DISTRICT's recordation of the executed Quitclaim Deed and Certificate of Acceptance shall be deemed DISTRICT's acceptance of the physical condition and condition of title of the PROPERTY. If, as a result of its Investigations of the PROPERTY, DISTRICT determines that it does not wish to accept conveyance of the PROPERTY from GRANTOR, DISTRICT shall so notify GRANTOR and shall return the original executed copy of the Quitclaim Deed to GRANTOR. Upon such notice and return of the

Attachment C

Quitclaim Deed, this CONTRACT shall be deemed automatically terminated and of no further force and effect.

5. VOLUNTARY ACQUISITION

GRANTOR acknowledges that this transaction is voluntary, and GRANTOR is hereby informed that DISTRICT would not have acquired the PROPERTY in the event negotiations had failed to result in this agreement.

6. MISCELLANEOUS ITEMS ACQUIRED AS REALTY

It is understood and agreed by and between the PARTIES hereto that the conveyance described in Section 1 above includes, but is not limited to, an on-site water well, well pump equipment, and all water rights, which are considered to be part of the realty and are being acquired by DISTRICT in this transaction.

7. RESPONSIBILITY FOR REAL PROPERTY

It is understood that DISTRICT assumes no liability of ownership until title vests in DISTRICT.

8. COUNTERPARTS

This CONTRACT may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument.

9. ATTACHMENTS (19.1 S)

This CONTRACT includes the following, which is attached hereto and made a part hereof:

ATTACHMENT 1 – Quitclaim Deed and Map

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Attachment C

IN WITNESS WHEREOF, the PARTIES have executed this CONTRACT the day and year first above written.

Approved as to Form

By: [Signature]

Its: City Attorney

ATTEST:

By: [Signature]

Its: City Clerk

GRANTOR

City of Garden Grove, a municipal corporation

By: [Signature]

Its: City Manager

Approved as to Form
Office of the County Counsel
Orange County, California

By: [Signature]
Deputy

Date: 5/17/2012

Signed and certified that a copy of this document
has been delivered to the Chairman of the Board per
G.C. Sec. 25103, Reso 79-1535

ATTEST:

Susan Novak
Clerk of the Board of Supervisors
Orange County Flood Control District
Orange County, California

DISTRICT

Orange County Flood Control District,
a body corporate and politic

By: _____
Chairman, Board of Supervisors
Orange County, California

Attachment C

RECORD AT REQUEST OF,
AND WHEN RECORDED MAIL TO:

County of Orange
OC Public Works
Real Estate Services
300 North Flower, 6th Floor
Santa Ana, California 92703

ATTN: Sergio Mora

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MAIL TAX STATEMENTS TO:

**This is to certify that this document is
exempt from recording fees per Govt.
Code Sec. 27383 and is exempt from
Documentary Transfer Tax per Rev. &
Taxation Code Sec. 11922.**

By: _____
OC PUBLIC WORKS/REAL ESTATE SERVICES

A. P. NO.: 231-321-03 and 231-601-38

- Unincorporated Area
 Incorporated, City of Garden Grove

Project/Parcel No: C05B02 / 1510 and 1511
Project: Haster Pump Station

QUITCLAIM DEED

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged,

CITY OF GARDEN GROVE, a municipal corporation, hereinafter referred to as the
“**GRANTOR**” does hereby remise, release and forever Quitclaim to the

ORANGE COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic,
hereinafter referred to as “**DISTRICT**”,

all right, title and interest in and to the real property in the City of Garden Grove, County
of Orange, State of California, described in EXHIBIT A and illustrated in EXHIBIT B-1
and B-2, which Exhibits attached hereto and made a part hereof.

Attachment C

IN WITNESS WHEREOF, Grantor has executed this Quitclaim Deed as
of _____,

CITY OF GARDEN GROVE,
a municipal corporation

By: _____
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

State of California)
County of Orange)

On _____ before me, _____
(here insert name and title of the officer)

personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are
subscribed to the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the
foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

Attachment C

CERTIFICATE OF ACCEPTANCE

This is to certify that the interest in real property conveyed by the within deed or grant to the ORANGE COUNTY FLOOD CONTROL DISTRICT, a body corporate and politic, is hereby accepted by order of the Board of Supervisors of the County of Orange, California, acting as the governing board of the ORANGE COUNTY FLOOD CONTROL DISTRICT, and the ORANGE COUNTY FLOOD CONTROL DISTRICT consents to recordation thereof by its duly authorized officer.

ORANGE COUNTY FLOOD CONTROL DISTRICT

Dated: _____

By: _____

Chairman of the Board of Supervisors
Orange County, CA

**Signed and certified that a copy of this document
has been delivered to the Chairman of the Board per
G.C. Sec. 25103, Reso 79-1535**

ATTEST:

Susan Novak
Clerk of the Board of Supervisors
Orange County Flood Control District
Orange County, California

Approved as to Form
Office of the County Counsel
Orange County, California

By: _____ Date: _____
Deputy

Attachment C

LEGAL DESCRIPTION

**Facility: Haster Pump Station
Facility No.: C05B02**

Parcel No.: 1510

That certain land, in the City of Garden Grove, County of Orange, State of California, shown on Tract Map No. 2376 and labeled as "NOT A PART", filed in book 77, pages 13 and 14 of Miscellaneous Maps, in the Office of the County Recorder of the said county, described as follows:

Beginning at the northwest corner of Lot "A" of said Tract No. 2376; thence, traversing the boundary of said portion of land labeled as "NOT A PART" the following courses:

S. 24° 13' 38" W., 19.78 feet;
S. 89° 45' 20" W., 60.00 feet;
N. 0° 12' 38" W., 18.00 feet to the Northerly line of said Tract; and
N. 89° 45' 20" E., 68.18 feet to the Point of Beginning.

EXCEPT that portion described in a deed to the Orange County Flood Control District, recorded April 18, 1978 in book 12639, page 889 of Official Records in the Office of the County Recorder of said county.

Containing 1,120 Square Feet, more or less.

See EXHIBIT B-1 attached and by reference made a part.

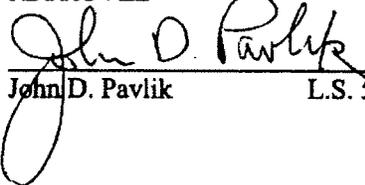
Parcel No.: 1511

That certain land, in the City of Garden Grove, County of Orange, State of California, shown as Parcel 2 on the map filed in book 117, pages 33 and 34 of Parcel Maps in the office of the County Recorder of said county.

Containing 0.41 Acres, more or less.

See EXHIBIT B-2 attached and by reference made a part.

APPROVED

 Date: 12/12/11
John D. Pavlik L.S. 5168



ATTACHMENT 1

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EXHIBIT A



CITY

1507.01

49

2376

HASTER
RETARDING
SEE MAP C05-15
BASIN
OF

NO. 77/13-14
M.M.

50

P.O.B.

N89°45'20"E
68.18'

N0°12'38"W
18.00'

1510
"N.A.P."

S24°13'38"W
19.78'

S89°45'20"W
60.00'

1508

O.R. 12639/889

TRACT

GARDEN

9

10

LOT A

1502

GROVE

SEE MAP C05-15

ATTACHMENT 1

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ASPENWOOD LANE



COUNTY OF ORANGE
OC PUBLIC WORKS
RIGHT-OF-WAY ENGINEERING

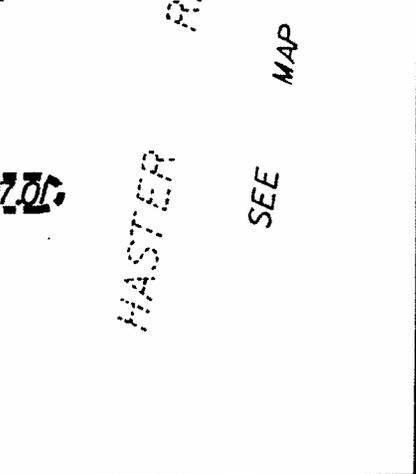
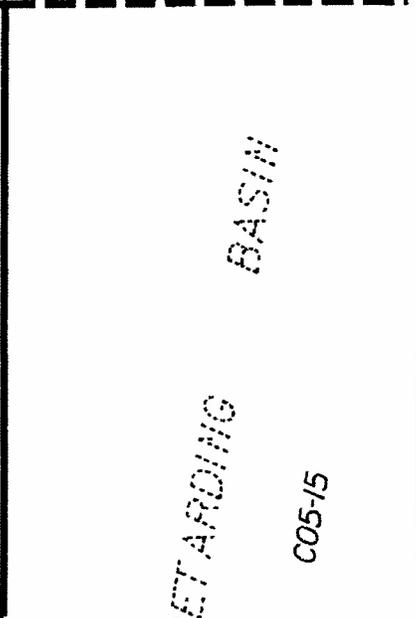
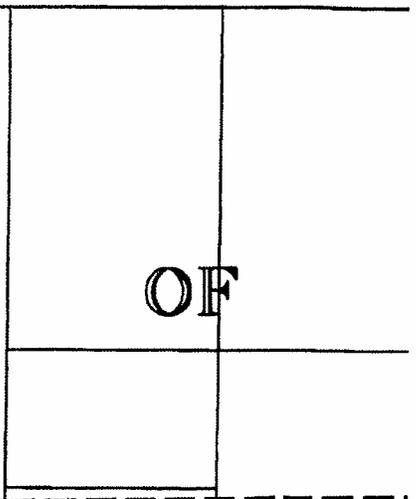
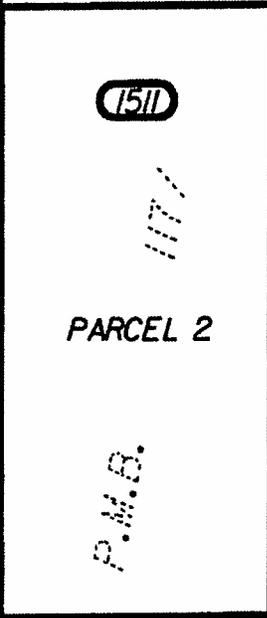
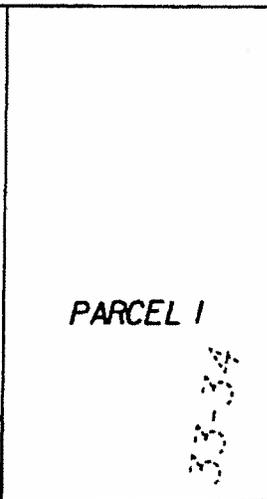
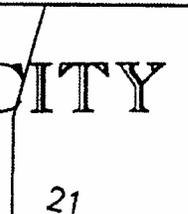
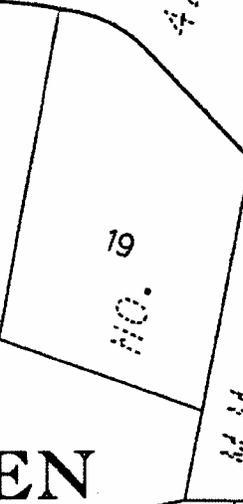
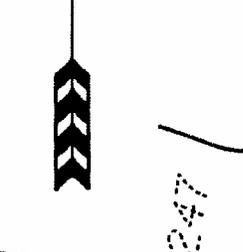
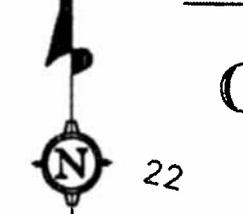
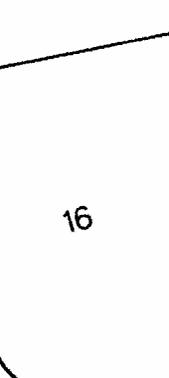
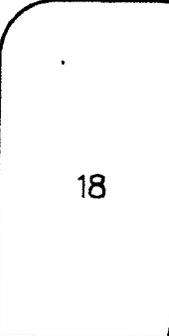
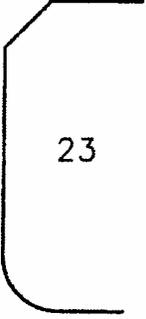
ID # 2011 - 021

SCALE : 1" = 30'

EXHIBIT B-1

PROJECT : HASTER PUMP STATION - C05B02

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SUNGROVE CIR.

GARDEN

GROVE

CITY

OF

PARCEL 1

PARCEL 2

4247

NO.

M.M. 151/35-36

1511

1177

P.M.B.

BASIN

RETARDING

HASTER

MAP C05-15

SEE

15070

ATTACHMENT 1

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COUNTY OF ORANGE
OC PUBLIC WORKS
RIGHT - OF - WAY ENGINEERING

ID # 2011 - 021
SCALE : 1" = 60'

EXHIBIT B-2

PROJECT : HASTER PUMP STATION - C05B02

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