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CLIENT: City of Redlands  
30 Cajon Street  
Redlands, California 92373

DATE: February 27, 1985

PROJECT: Municipal Corporation Yard

W. O. NO.: 5024-01

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### Article 1. Authorization

City of Redlands (Client) hereby authorizes Albert C. Martin and Associates (ACMA) to provide professional architectural and engineering services in accordance with the provisions of this Agreement and the attached General Terms of Agreement. These services and supplementary drawings and other Instruments of Service are to be provided for the construction of the Project described as follows:

- 1.1 On-Site improvements to rehabilitate, remodel and construct new facilities for the Municipal Corporation Yard as described by Alternative No. 1 in the Planning Study prepared by Neste, Brudin & Stone, Incorporated dated June 1984. This facility is to be located on a site of approximately 14 acres situated north of Park Avenue between Tennessee Street and Kansas Street in the City of Redlands.
- 1.2 Off-Site street improvements to Kansas Street and Park Avenue adjacent to the site which are currently unimproved. The improvements will consist of street widening, lighting and extension of gas and water lines.

### Article 2. Compensation by Client

#### 2.1 Compensation for Basic Services

Client agrees to compensate ACMA for the services defined in Article 3.0, a Fee not to exceed Eight Percent (8%) of the Cost of the On-Site Work and \$24,000 for the Off-Site Work, as follows:

#### 2.2 Computation of Compensation

- 2.2.1 Direct Personnel Expense plus One Hundred Fifty Percent (150%);
- 2.2.2 Computer and constant line plotting services on the basis of the latest schedule published by ACMA;
- 2.2.3 The cost to ACMA of professional services which ACMA elects to have performed by others; and
- 2.2.4 Premium Payments for Overtime Work performed when reasonably required to meet established schedules as approved or requested by Client.

#### 2.3 Compensation for Expenses Excluded

Compensation for Expenses Excluded shall be made in accordance with Section II of the General Terms of Agreement.

### Article 3. Description of Basic Services ("Basic Services")

Provide architectural and structural, mechanical, electrical and civil engineering services for Building Shell Work, Building Standard Work and for the Off-Site Street Improvements described in Article 1.2 as described herein.

#### 3.1 Preliminary Design Phase (30%)

- 3.1.1 Review Client-provided Program of Criteria and Planning Study and consult with Client to resolve any questions which arise during this review.
- 3.1.2 Complete Client provided schematic design by development of building elevations and materials summary to show schematic design, architectural vocabulary and environmental character of site for Client review and acceptance.
- 3.1.3 Perform code research and resolve code problems.
- 3.1.4 Initiate working drawings to include site plan, floor plans, section and elevation drawings and outline specifications based upon the approved schematic design documents which will cover, in general, materials, structure, equipment, and mechanical and electrical systems.
- 3.1.5 Review with and obtain written approval from Client of Preliminary Design Phase when these working drawings are approximately 30% complete.

#### 3.2 Construction Document Phase 100%

- 3.2.1 Complete Construction Documents consisting of working drawings and detailed specifications based upon the approved Preliminary Design Phase for approval by Client and assist Client in the preparation of instructions to bidders, proposal forms and the General and Supplementary Conditions of the Contract for Construction;
- 3.2.2 Prepare and submit to Client a Final Estimate of the probable Cost of the Work when these documents are approximately 75% complete.
- 3.2.3 File drawings with appropriate Building Department and make such modifications as are necessary to obtain approvals and allow a contractor to obtain building permits.

#### 3.3 Construction Phase

- 3.3.1 Assist Client, when requested, in obtaining proposals from general contractors and in awarding the construction contract to the successful general Contractor;
- 3.3.2 Review during bidding contractor-proposed alternates which are permitted by "or equal" provisions of the specifications;

- 3.3.3 Review for conformance to design concept of Project and general compliance with Construction Documents those shop drawing submittals which are required of the Contractor to comply with "performance requirements";
- 3.3.4 Select for Client approval all colors, patterns, and textures of paint, tile and other finish materials;
- 3.3.5 Provide course of construction observation at intervals appropriate to the stage of construction and provide written reports to keep the Client informed of the general progress of the work. Attend construction meetings with Client and contractor at the site as required, not to exceed 48, to assist in resolving field problems and to review the work at critical stages.
- 3.3.6 Render interpretations of the Construction Documents including the issuance of clarification drawings if required for the proper execution of the work;
- 3.3.7 Maintain records, including issuance of Change Orders, in order to evaluate the propriety of the Contractor's Applications for Payment;
- 3.3.8 Conduct final field review of the Project and prepare punch list of incomplete work items to determine dates of Substantial and Final completion of the Project;
- 3.3.9 Assemble and deliver to Client all Contractor-furnished documents such as written guarantees, service manuals and record drawings.

#### Article 4. Payments

- 4.1 Payment of the Compensation for Basic Services defined in Article 2.1 shall be made in progressive monthly amounts which upon completion of each phase, conform to the following cumulative percentages:
  - 4.1.1 Preliminary Design Phase (30%) 30%
  - 4.1.2 Construction Document Phase (100%) 82%
  - 4.1.3 Completion of Construction Phase 100%
- 4.2 Payment of the Compensation for Expenses Excluded as provided in Section II of the General Terms of Agreement and for Services Excluded from Basic Services as provided in Section III also shall be made monthly. Payment for Services Excluded from Basic Services shall be based upon the progress of the work.
- 4.3 Should the Project be suspended or abandoned in whole or in part for more than sixty (60) days, or the services of ACMA be terminated, ACMA shall be paid the same amount as provided for by Article 6 as if the Agreement had been terminated. Payment shall be made upon presentation of an invoice.

## Article 5. Services and Data Provided by Client

The Client shall provide the following services and data:

- 5.1 An engineering survey of the site performed by a registered engineer or land surveyor including grades and lines of streets, pavements, and adjoining properties; rights-of-way, restrictions and easements; boundaries and contours of the site; locations and dimensions of existing buildings, improvements and trees; and record information as to available service and utility lines, both public and private, including locations and dimensions of unexposed or underground utility services;
- 5.2 Foundation and soils investigation report;
- 5.3 Geologic and seismologic report;
- 5.3 Structural, mechanical, chemical and other tests, inspections, and reports as required by law, public agencies, or the contract documents;
- 5.4 Insurance and legal advice and services as required by the Project including the preparation of bidding, proposal, and contract documents;
- 5.5 Information included in deeds or lease agreements when it concerns restrictions or approvals which affect the Project;
- 5.6 Review of documents prepared by ACMA with prompt written notice to be given to ACMA and the construction Contractor whenever Client or any of its employees or agents becomes aware of any conflict, error, omission, or improper use of materials in these documents, of any fault or defect in the Project or of any non-conformance with the construction Contract Documents;
- 5.7 All necessary information, including drawings, concerning equipment furnished by the Client.

## Article 6. Termination of Agreement ("Termination")

- 6.1 Client may terminate this entire Agreement upon written notice of seven (7) days of such action. ACMA may terminate upon written notice of seven (7) days should Client fail substantially to perform in accordance with the terms of this Agreement through no fault of ACMA. Upon termination, the compensation due ACMA in accordance with Article 2.1 shall be increased by an amount equal to Five Percent (5%) of the total incremental Fee payable by schedule for the Phase in which termination occurs.

- 6.2 Client may terminate upon written notice of seven (7) days should ACMA fail substantially to perform in accordance with the terms of this Agreement through no fault of Client. ACMA may elect to terminate this entire Agreement prior to written acceptance by ACMA of written approval of the Preliminary Design Phase by Client with any conditions included. Client shall compensate ACMA for performance of services through the period of notice in accordance with Article 2.
- 6.3 Each party shall have fifteen (15) days from the receipt of written notice of substantial failure within which to cure any default.
- 6.4 Upon termination, all invoices presented by ACMA for professional services and for Expenses Excluded through the period of notice, including those attributable to termination and suspension of the work, shall immediately become due and payable.

#### Article 7. Sole Agreement

This contract constitutes the entire Agreement between Client and ACMA. It is specifically agreed that no representations or agreements of any character, written or oral, not contained in this Agreement, have been made by Client or ACMA, and any claimed representations or agreements are hereby waived. This Agreement may be amended only by written instrument signed by both Client and ACMA.

#### Article 8. Successors and Assignments

Neither Client nor ACMA shall assign, sublet or transfer their respective interests in this Agreement without the written consent of the other, including assignments or transfers by operation of law, but such consent cannot be withheld unreasonably by Client or ACMA.

#### Article 9. Notice

Any notices required or permitted by the Agreement shall be in writing and shall be deemed given when posted by first-class mail, postage prepaid, to the party for whom the notice is intended at his last given address, or when delivered in person to an authorized representative of such party.

#### Article 10. Period of Performance

It is important to Client that the Final Estimate of the probable Cost of the Work be prepared and available to Client no later than June 1, 1985. Consultant therefore agrees that the Construction Documents will be sufficiently complete to provide that information. For that reason, time is of the essence in making these Construction Documents available for bid by that date.

It is the contemplation of both the parties that the period for performance of the above described services will be completed no later than two (2) years from date hereof.

IN WITNESS WHEREOF, on the day and year first above written, the parties hereto have executed this Agreement in multiple counterparts, each of which counterpart shall be deemed an original.

ALBERT C. MARTIN AND ASSOCIATES

By: 

Title: Principal

CITY OF REDLANDS

By: 

Carole Beswick  
Title: Mayor of the City of Redlands

In Triplicate

WP 1184

## GENERAL TERMS OF AGREEMENT

CLIENT: City of Redlands  
30 Cajon Street  
Redlands, California 92373

DATE: February 27, 1985

PROJECT: Municipal Corporation Yard

W. O. NO.: 5024-01

### Section I. Definitions

The following are definitions of terms as used in this Agreement, which are supplemented by the incorporation herein by reference of other definitions included in AIA Document A201, General Conditions of the Contract for Construction:

- A. "Instruments of Service". The design studies, engineering calculations, working drawings, detailed specifications, computer programs and software, and other documents related to the Project which assist in communicating the design intent and detailed requirements established during the performance of professional architectural and engineering services. ACMA, its employees and consultants use that degree of reasonable care, skill and diligence customarily followed by architects and engineers in this and similar communities. These instruments may represent imperfect data and may contain conflicts, errors, omissions, code violations and improper use of materials which will be corrected when identified.
- B. "Direct Personnel Expense". Direct salaries earned by productive personnel while performing services directly related to the Project and by their supervisors plus the cost for mandatory and customary benefits provided by ACMA to such individuals. Direct salaries are computed by using total hours employed on the Project multiplied by the regular hourly rate of pay.
- C. "Overtime Work". Hours worked by each employee in excess of the normal daily schedule or 40 hours each week, whichever is greater.
- D. "Premium Payments for Overtime Work". Direct salaries earned by each employee as computed using hours of overtime work multiplied by one-half the regular hourly rate of pay.
- E. "Computer and Constant Line Plotting Services". Data computation and processing by computer and related primary services such as on- and off-line data storage, card-reader, line-printer, line-plotter and remote terminal usage.
- F. "Cost of the Work". Cost to the Client of all work designed, specified, or otherwise provided for in the documents prepared by ACMA and its consultants for the entire Project, which includes all Building Standard Work and all payments to the Contractor for general conditions, fees and cost savings; but excluding compensation of ACMA and its consultants and the expense of engineering surveys of the site, soils engineering and



construction testing services. Labor, equipment or materials furnished by the Client shall be included at current market value with a reasonable allowance for overhead and profit. Should the scope or quality of the Project be increased, the scheduled period of construction be extended, or the operational functions to be accommodated by the Project be modified at any time, the increase in cost resulting from all such work shall also be included.

- G. "Building Shell Work". The enclosed building with standard building finishes on all walls exposed to the public with provision for Client required utilities and services to a central point of connection for fit-up work. The Shell Work includes exit corridors, stairs, elevators, mechanical and electrical equipment and toilet rooms, main floor and elevator lobbies (excluding furniture, furnishings, casework and special decorative features) and signs required by the applicable building code. It excludes Building Standard Work, Fit-Up Work and Occupancy Work.
- H. "Building Standard Work". Systems for standard office use including wall system (partitioning, doors, hardware), floor covering, window covering (drapes or blinds), and ceiling system (acoustical tile, light fixtures, air handling fixture), which have been designed or selected with the approval of Client for incorporation into the Project by others to complete the Project for tenant occupancy.
- I. "Fit-Up Work". All labor, materials, equipment and services required to complete construction of the facility to satisfy the specific occupancy requirements up to the point of final connection of occupant equipment. This includes any revisions to the Building Shell and Building Standard Work and the installation of modifications, relocations, extensions and additions to utility systems, supplemental HVAC systems, special fire and alarm systems, special fume and dust removal systems, special floor finishes, equipment wiring and other connections, equipment foundations, special supplemental or high intensity lighting, clean rooms, sound and environmental chambers, special partitioning and special security areas and systems.
- J. "Occupancy Work". All labor, materials, equipment and services required to finish a facility for occupancy. This includes furniture, furnishings, carpet, draperies, accessories, fixtures, office and process equipment, casework, telephone and other communication systems, computer and terminal systems, and other special requirements of the occupant related to his use of the facility.
- K. "Record Drawings". Changes recorded by the Contractor on reproducible drawings of the Project furnished by Client to indicate the location and size of all elements of construction, that are other than shown on the original contract drawings.

- L. "Final Estimate". Estimate of the probable Cost of the Work which is prepared by ACMA for all architectural and engineering building and on-site systems and for Off-Site street improvements included in the Project as delineated in the Construction Documents. This estimate is based upon its professional opinion and quantity "take-offs" of the construction materials to which are applied unit costs plus building primary mechanical and electrical distribution systems which are based upon square foot or other unit costs developed from experience.
- M. "Adjusted Final Estimate". Final Estimate as adjusted for any changes in the scope or quality of the work and for changes in the proposed construction time schedule which are authorized by the Client.
- N. "Client's Economic Budget". Amount of money designated by the Client for the Cost of the Work at the effective date of this Agreement plus other costs estimated by Client to be incurred such as land acquisition, Expenses Excluded, Services and Data Provided by Client, and Fit-Up and Occupancy Work required to complete the facility prior to modification as described in the following paragraph.
- O. "Client's Adjusted Economic Budget". Amount of money as adjusted to allow for changes in the scope and quality of the Project, for changes in the ENR Index, for reappraisals of other costs to be incurred by Client, and for changes in the proposed construction time schedule.

## Section II. Expenses Excluded

When requested by the Client, ACMA and its consultants may incur expenses which are excluded from professional services and shall be reimbursed by the Client monthly as follows:

- A. On the basis of cost plus Fifteen Percent (15%) for items such as the following:
  - A.1 Building authority fees and permits;
  - A.2 Travel and subsistence expenses for travel to points outside Los Angeles County;
  - A.3 Communication costs including telephone tolls for calls outside the Los Angeles Area Code 213;
  - A.4 Fees and expenses for special consultants, such as landscape architect, and for furnishing services and data on behalf of the Client;
  - A.5 All charges relating to models, and graphic representations such as perspective renderings, photographs, photostats and other special reproductions required for the Project.
- B. On the basis of the latest schedule published by ACMA for reproduction, binding, and delivery of technical reports; of all construction documents issued to Client, Contractors, ACMA and others for use during bidding and construction; and of all leasing data required by Client or its consultants.
- C. On the basis of cost for premium payments for overtime work performed at the request of the Client.

### Section III. Services Excluded from Basic Services

When requested by the Client, ACMA may provide professional services such as the following upon approval by Client of a Change Authorization. These services are excluded from the Basic Services provided by ACMA. To provide compensation to ACMA for such services, each Change Authorization will include the expected Compensation which shall be added to and increase the Compensation provided in Article 2.1.

- A. Preparation and processing of rezoning and building code variance applications, or activities in connection with public agencies such as those to provide for off-site utilities, streets, freeway interchanges, signs and other facilities, or to obtain Special Use Permits, Architectural Committee Approvals, etc.
- B. Performance of studies such as geological, seismological and dynamic analyses, etc., and preparation and processing of reports.
- C. Field investigations to obtain detailed information regarding existing facilities.
- D. Detailed construction scheduling and control activities, and deferred construction work.
- E. Preparation of documents and other services to obtain alternate or separate bids, to accommodate equipment or material purchases, or to permit any construction prior to completion of the Construction Document Phase for the entire Project. These services include the preparation of modifications or other changes to the Construction Documents to include design or construction requirements identified during completion of the work.
- F. Preparation of revisions to drawings and specifications when required because of changes authorized by the Client after prior acceptance of a Phase of Basic Services, including changes in data regarding equipment to be supplied by the Client, and the review of and preparation of revisions to incorporate substitutions and alternates presented by the Contractor other than those submitted during bidding in accordance with specific "or equal" provisions of the specifications.
- G. Provide services to assist Client with reports and statements concerning professional services performed or project data which are required by or to be provided to financial institutions, leasing agents or others.
- H. Provide programming and space planning assistance to Client by interviewing and recording the Fit-Up and Occupancy Work requirements of the occupants of individual areas and present these data to Client for review and approval of the detailed Statement of Requirements to be provided and Space Plan for the Project.
- I. Preparation of Design Development, Construction Document and Construction Phase services for any Fit-Up or Occupancy Work.
- J. Selection of graphic elements such as directional signs, environmental graphics, displays and stationery.

- K. Performance of on-site observations by a full time field representative who will interpret the drawings and specifications, coordinate activities of the inspectors if employed by Client and serve as liaison with the office of ACMA.
- L. Review of the Record Drawings prepared by the Contractor. Such review shall not relieve the Contractor of his responsibilities for the accuracy and completeness of the information recorded nor charge ACMA with responsibility or liability for the changes recorded.
- M. Performance of prolonged contract administration and observation of construction should the construction period be extended by more than sixty (60) calendar days from that established at the time the Contract for Construction is awarded.

#### Section IV. Consultants and Client Furnished Services and Data

With the approval or at the direction of the Client, ACMA may employ special consultants, such as a landscape architect, as may be required for the Project, or may authorize others to furnish services or data on behalf of the Client, such as site surveys. ACMA may coordinate such work to facilitate accomplishment within the general requirements of the Project. Such acts by ACMA, including the recommendation or selection by ACMA of the individual or firm to furnish such work, shall in no way be construed as imposing upon ACMA or charging ACMA with any liability or responsibility for any error, omission or other defect in the services or data so furnished. Payment for such work shall be made by the Client upon receipt of a statement by ACMA to the propriety of invoices submitted.

#### Section V. Project Site Responsibility

ACMA shall not be responsible for providing or reviewing shoring and steel reinforcement detail and placement drawings.

ACMA shall not be responsible for the Contractor's failure to carry out the construction work in accordance with the Construction Documents, or for any construction processes, site conditions, operations, equipment, personnel, or for safety precautions and programs in, on, or about the Project, all of which are the sole responsibility of the Contractor.

ACMA shall not be required to make on-site inspections to check the quality or quantity of the work.

#### Section VI. Out-of-Phase Construction

Client may elect to proceed with equipment and material purchases, bidding and construction prior to completion of the Construction Document Phase upon completion by ACMA of necessary services. Such out-of-phase purchases and construction before completion of coordination and checking corrections to the Construction Documents may result in additional costs of design or construction. Performance of the associated professional architectural and engineering services, all of which are excluded from Basic Services, shall not result in imposing upon or charging ACMA with any responsibility or liability for any such added costs of design or construction.

## Section VII. Accounting Records

ACMA shall maintain its records relating to all work assignments on a generally recognized accounting basis and shall make such records available to Client for work performed on a cost reimbursable basis, if requested.

## Section VIII. Responsibility for Cost of the Work and Construction Time Schedule

Evaluations of the Client's Budget Statement, Preliminary Estimates of probable cost of the work, estimates of construction costs and the time required for construction, if any, prepared by ACMA represent its best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither ACMA nor the Client has control over the cost of labor, materials or equipment, over the contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, ACMA cannot and does not warrant or represent that bids or negotiated prices will not vary from the budget proposed, established or approved by the Client, if any, or from any Preliminary Estimate or other cost estimate, time schedule or evaluation prepared by ACMA.

## Section IX. Ownership of Documents

Drawings, calculations, specifications, computer programs and software, and other Instruments of Service are the property of ACMA and are not to be used on other work without the prior written approval of ACMA. Client hereby agrees to defend, indemnify, and hold ACMA, its employees, and agents harmless of, from and against any claims, loss, cost, damage or expense, including attorneys' fees, arising out of, based upon, or related to any such use of these documents.

## Section X. Insurance

ACMA shall procure and maintain insurance policies in effect during the period of performance of this Agreement of the type generally available insuring ACMA during its performance under this Agreement which will:

- A. Comply with applicable Workmen's Compensation Laws, and
- B. Provide the following coverage for damages incurred:
  - 1. Comprehensive general liability insurance for operations with a combined single limit each occurrence and aggregate of \$500,000.00 for bodily injury and property damage.
  - 2. Automobile liability insurance with a combined single limit each occurrence of \$500,000.00 for bodily injury and property damage.
  - 3. Professional liability insurance for actionable negligent professional acts, errors or omissions of ACMA with a combined single limit each occurrence and aggregate of \$1,000,000.00.

Client agrees that the liability of ACMA, its partners, employees, agents and consultants to Client and to all construction Contractors, Subcontractors, and suppliers shall be limited to the proceeds recovered from the above insurance and within the coverage limits specified.

Client further agrees that the Contract for Construction will require the Contractor to carry satisfactory insurance which will name both Client and ACMA as additional insureds and will waive subrogation and contribution provisions. The indemnification provision of this Contract shall include defense and exclude from the Contractor's responsibility only those acts, errors or omissions of ACMA which are caused solely by the actionable negligence of ACMA.

#### Section XI. Payments Due

All Compensation earned for Basic Services, for Services Excluded from Basic Services and for Expenses Excluded which have been incurred shall be due and payable monthly upon presentation of invoices therefor. If payment in full is not received by ACMA within thirty (30) days after such presentation, ACMA shall:

- A. Be paid a delinquency charge of Two Percent (2%) per month, or the maximum charge allowed by law, on the unpaid balance from the date of the invoice, but the payment of such charge shall not excuse the default in payment; and
- B. Have the right to:
  - 1. Suspend all work until payment is received; and/or,
  - 2. Terminate the unperformed portion of this Agreement.

#### Section XII. Suspension or Abandonment of Work ("Suspension or Abandonment")

ACMA shall perform such work as may be required to suspend, abandon or reactivate the Project and shall be compensated by Client as set forth in Articles 2.2 and 2.3 for services provided and for Expenses Excluded which have been incurred. Should the Project be suspended for more than sixty (60) days, the Compensation provided in Article 2.1 shall be adjusted in a manner satisfactory to Client and ACMA or the Project shall be terminated without cause.

#### Section XIII. Arbitration

Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, may be finally settled by arbitration, with the consent of both parties; provided, however, ACMA shall not be required to arbitrate a claim if ACMA's professional liability carrier refuses to consent to such arbitration. The demand for arbitration shall be made within a reasonable time after the claim, dispute or other matter in question has arisen, but in no event shall the demand for arbitration be made after institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations. The arbitrator(s) shall not vary, modify, or alter the terms and provisions of this Agreement. The arbitration shall be conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association. Judgment upon the award rendered by the arbitrator(s) may be entered in any Court having jurisdiction thereof.

The arbitrator(s), when they deem that the case requires it, are authorized to award to the party whose contention is sustained such sums as they or a majority of them shall deem proper to compensate him for the time and expense, including attorneys' fees, incident to the proceeding, and where the arbitration was demanded without reasonable cause, they may award damages for delay.

In the event of arbitration, the parties to this agreement consent to the full use of discovery proceedings provided for in the California Code of Civil Procedure for use in civil actions. In the event of any dispute arising over the scope or nature of discovery, the arbitrator(s) shall resolve such dispute. Such orders shall be binding on the parties.

Should suit be filed to enforce or for the breach of the terms of this agreement, the prevailing party shall be entitled to the award of reasonable attorneys' fees.

#### Section XIV. Governing Law

This Agreement shall be governed and professional services shall be performed in compliance with the laws of the State of California and applicable governmental regulations, building codes and ordinances in effect at the date of this Agreement.

\* \* \* \* \*