

AGREEMENT TO FURNISH ENGINEERING SERVICES TO PREPARE REDLANDS SPORTS PARK PARCEL MAP

This Agreement is made and entered into this 1st day of April, 2003, by and between the City of Redlands, a municipal corporation ("City") and Hicks and Hartwick, Inc., ("Consultant").

In consideration of the mutual promises contained herein, City and Consultant agree as follows:

ARTICLE 1 - ENGAGEMENT OF CONSULTANT

- 1.1 City hereby engages Consultant and Consultant hereby accepts the engagement to prepare a parcel map for the Redlands Sports Park (the "Services").
- 1.2 All work performed by Consultant under this Agreement shall be done in a professional manner, and Consultant represents that it is skilled and has the professional expertise necessary to provide high quality Services to City at the level of competency presently maintained by other practicing professional consultants in the industry providing similar types of services.

ARTICLE 2 - RESPONSIBILITIES OF CONSULTANT

- 2.1 The specific Services which Consultant shall perform are more particularly described in Exhibit "A," entitled "Engineering Services for Redlands Sports Park Parcel Map" which is attached hereto and incorporated herein by this reference.
- 2.2 Consultant shall comply with all applicable Federal, State and local rules, laws and regulations in the performance of this Agreement including but not limited to all applicable Labor Code and prevailing wage laws.

ARTICLE 3 - RESPONSIBILITIES OF CITY

- 3.1 City shall place at disposal of Consultant all available information in its possession pertinent to the Service.
- 3.2 City will provide access to and make all provisions for Consultant to enter upon City-owned property or right-of-way as required by Consultant to perform the Services.
- 3.3 City will designate in writing a person to act as City's representative with respect to the Services, and such person shall have complete authority to transmit instructions, receive information, interpret and define City's policies and decisions with respect to materials,

information, interpret and define City's policies and decisions with respect to materials, equipment, elements and systems pertinent to the Services.

ARTICLE 4 - PERIOD OF SERVICE

- 4.1 Consultant shall perform the Services in a prompt and diligent manner in accordance with the schedule attached hereto and incorporated herein by reference as Exhibit "B," entitled, "Project Schedule for Redlands Sports Park Parcel Map."

ARTICLE 5 - PAYMENT AND NOTICE

- 5.1 For the performance of the Services, City will pay Consultant the sum of \$10,000.00.
- 5.2 Payments by City to Consultant shall be made within 30 days after receipt and approval of Consultant's hereinabove invoice, by warrant payable to Consultant.
- 5.3 All notices, bills and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills and payments sent by mail should be addressed as follows:

City: Bill Hemsley, Civil Engineer
City of Redlands
Public Works Department
PO Box 3005
Redlands, CA 92373

Consultant: James W. Hicks
Hicks and Hartwick, Inc.
37 E. Olive Avenue, Suite C
Redlands, CA 92373

When so addressed, such notices shall be deemed given upon deposit in the United States mail; in all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to whom notices, bills and payments are to be given by giving notice pursuant to this paragraph.

ARTICLE 6 - INSURANCE AND INDEMNIFICATION

6.1 Consultant's Insurance to be Primary

All insurance required by this Agreement is to be maintained by Consultant for the duration of this Project and shall be primary with respect to City and non-contributing to any insurance or self-insurance maintained by City. Consultant shall provide City with Certificates of Insurance and endorsements evidencing such insurance prior to commencement of work.

6.2 Workers' Compensation and Employer's Liability

- A. Consultant shall secure and maintain Workers' Compensation and Employer's Liability insurance throughout the duration of this Agreement in an amount which meets the statutory requirement with an insurance carrier acceptable to City. Such insurance shall be primary and non-contributing to any insurance or self-insurance maintained by City. The insurance policy shall include a provision prohibiting cancellation of said policy except upon thirty (30) days prior written notice to City. Certificates of Insurance shall be delivered to City prior to commencement of work.
- B. Consultant expressly waives all rights to subrogation against City, its elected officials, officers and employees for losses arising from work performed by Consultant for City by expressly waiving Consultant's immunity for injuries to Consultant's employees and agrees that the obligation to indemnify, defend and hold harmless provided for in this Agreement extends to any claim brought by or on behalf of any employee of Consultant. This waiver is mutually negotiated by the parties. This shall not apply to any damage resulting from the sole negligence of City, its agents and employees. To the extent any of the damages referenced herein were caused by or resulted from the concurrent negligence of City, its agents or employees, the obligations provided herein to indemnify, defend and hold harmless are valid and enforceable only to the extent of the negligence of Consultant, its officers, agents and employees.

6.3 Hold Harmless and Indemnification. Consultant shall indemnify, hold harmless and defend City and its elected officials, agents, and employees from and against any and all claims, losses or liability, including attorney's fees, arising from injury or death to persons or damage to property occasioned by any act, omission or failure of Consultant, its officer, agents and employees in performing the Services required by this Agreement.

City agrees to and shall defend, protect, indemnify and hold harmless Consultant from and against any and all claims, losses, expenses, damages, demands, judgments, causes of action, suits, and liability in tort, contract, or any other basis and of every other kind and

character whatsoever, to the extent that claims are caused by, result from or arise out of City's sole negligence, gross negligence, intentional misconduct or strict liability.

- 6.4 Assignment. Consultant is expressly prohibited from subletting or assigning any of the Services described in this Agreement without the express written consent of City. In the event of mutual agreement between parties to sublet a portion of the Services, Consultant shall add the subcontractor as an additional insured and provide City with the insurance endorsements prior to any work being performed by the subcontractor. Assignment does not include printing or other customary reimbursable expenses that may be provided in this Agreement.
- 6.5 Comprehensive General Liability Insurance. Consultant shall secure and maintain in force throughout the duration of the Agreement comprehensive general liability insurance with carriers acceptable to City. Minimum coverage of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate for public liability, property damage and personal injury is required. City shall be named as an additional insured and the insurance policy shall include a provision prohibiting cancellation of said policy except upon thirty (30) days prior written notice to City. Such insurance shall be primary and non-contributing to any insurance or self-insurance maintained by City. Certificates of insurance and endorsements shall be delivered to City prior to commencement of work.
- 6.6 Professional Liability Insurance. Consultant shall secure and maintain professional liability insurance throughout the duration of this Agreement in the amount of one million dollars (\$1,000,000) per claim made. Consultant shall maintain professional liability insurance twelve months (12) beyond the current policy expiration date of September 29, 2003. Certificate of liability insurance and endorsement shall be delivered to City prior to commencement of work.
- 6.7 Business Auto Liability Insurance. Consultant shall have business auto liability coverage, with minimum limits of one million (\$1,000,000) per occurrence, combined single limit for bodily injury liability and property damage liability. This coverage shall include all consultant owned vehicles used on the project, hired and non-owned vehicles, and employee non-ownership vehicles. City shall be named as an additional insured and a certificate of insurance shall be delivered to City prior to commencement of work.

ARTICLE 7 - GENERAL CONSIDERATIONS

- 7.1 In the event any action is commenced to enforce or interpret any of the terms or conditions of this Agreement the prevailing party shall, in addition to any costs and other relief, be entitled to recover its reasonable attorneys' fees.

- 7.2 Consultant shall not sublet or assign any of the Services to be performed under this Agreement, except with the prior written approval of City and in strict compliance with the terms, provisions, and conditions of this Agreement.
- 7.3 Consultant's key personnel proposed for this project is as follows:
- James W. Hicks
Anthony Diaz
- Consultant agrees that these key personnel will be made available and assigned to City's Project, and that they will not be replaced without concurrence from City.
- 7.4 All documents, records, drawings, electronic data files and data base, photographic prints and negatives, designs and specifications, cost estimates, and other Project documents developed by Consultant pursuant to this Agreement and any copyright interest in above described documents shall become the property of City and shall be delivered to City upon completion of Services.
- 7.5 Consultant and City agree that Consultant is, for all purposes under this Agreement, an independent contractor with respect to the Services provided pursuant to this Agreement and not an employee of City. All qualified personnel provided by Consultant pursuant to the provisions of this Agreement are to be employed by Consultant for its account only, and in no event shall Consultant or any personnel retained by it be deemed to have been employed by City or engaged by City for the account of or on behalf of City. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties.
- 7.6 Unless earlier terminated as stipulated below, this Agreement shall terminate upon completion and acceptance by City of the Services.
- 7.7 Upon receipt of a termination notice, Consultant shall (1) promptly discontinue all services and (2) deliver or otherwise make available to City, copies of any data, design calculations, drawings, specifications, reports, estimates, summaries, and such other information and materials as may have been accumulated by Consultant in performing the Services required by this Agreement. Consultant shall be compensated on a pro-rata basis for any work completed up until notice of termination.
- 7.8 This Agreement, including the attachments incorporated herein by reference, represents the entire agreement and understanding between the parties as to the matters contained herein and any prior negotiations, proposals or oral agreements are superseded by this Agreement. Any amendment to this Agreement shall be in writing and approved by the City Council of City and signed by City and Consultant.

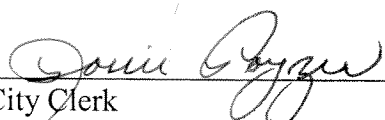
7.9 This Agreement shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, duly authorized representatives of the parties have signed in confirmation of this Agreement.

CITY OF REDLANDS

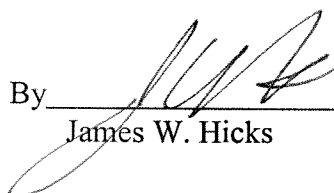
ATTEST:

By 
Mayor


City Clerk

Date April 1, 2003

HICKS AND HARTWICK, INC.

By 
James W. Hicks

Date _____

EXHIBIT A
ENGINEERING SERVICES
FOR
REDLANDS SPORTS PARK PARCEL MAP

PROJECT DESCRIPTION AND SCOPE OF SERVICES

Prepare a tentative parcel map per City standards to join the City-owned parcels with the assessors parcel numbers of: **168-031-21 & 22, 168-071-02, 168-041-45 & 46, 168-091- 02, 05 and 09.** Adjust the lot lines of the well properties with the assessors parcel numbers of **168-091-07 and 08.** Create new right-of-way boundaries along the proposed Dearborn Street alignment, to adjust the right-of-way boundaries of San Bernardino Avenue and Wabash Avenue, and to create new utility easements for the project.

One set of mylar drawings shall be submitted to the City for each phase along with the electronic AutoCAD drawing files.

EXHIBIT B
PROJECT SCHEDULE
FOR
REDLANDS SPORTS PARK PARCEL MAP

The project schedule is as follows:

Notice to Proceed:	March 18, 2003
90% Submittal:	April 18, 2003
100% Submittal:	April 28, 2003
Planning Commission Approval:	May 13, 2003
City Council Approval:	May 20, 2003

EXHIBIT C
CONSULTING FEE
FOR
REDLANDS SPORTS PARK PARCEL MAP

The cost to perform the agreed on scope of work is a lump sum amount of \$10,000.00.