

AGREEMENT

This agreement is made between the City of Redlands, a municipal corporation, hereinafter referred to as the "City" and Melvyn Green & Associates, Inc., hereinafter referred to as "MGA," located at 1145 Artesia Blvd., Suite 204, Manhattan Beach, CA 90266.

WHEREAS, MGA has submitted to the City a proposal for Professional Services for the Seismic Hazard Reduction Consulting City of Redlands, California; and

WHEREAS, MGA is experienced in providing such services and is able to provide personnel with the proper experience and background to carry out the duties involved in such service,

NOW, THEREFORE, in consideration of the mutual covenants, benefits and premises hereinabove stated, the parties hereto agree as follows:

1. The City hereby employs MGA to perform all the necessary services for professional Hazard Reduction Services.

2. Scope of Professional Services: MGA shall perform all the necessary services to be provided for under this agreement in connection with and respecting the project. Specifically, the scope of the services will be those described in MGA's proposal dated 8-22-88 which proposal is incorporated herein by reference and made a part hereof. The scope of services will include, but not be limited to:

- A. Hazards Identification.
- B. Development of a Draft Ordinance.
- C. Survey of URM Buildup.

D. Report to Seismic Safety Commission.

3. Time of Performance: The services of MGA shall be undertaken and completed in such sequence as to insure the expeditious completion in light of this agreement but, in no event, will the work proposed by this agreement be completed later than January 1, 1990.

4. Compensation: For satisfactory performance of the services, the City will pay MGA per the schedule set forth in MGA's proposal dated August 22, 1988. On the 15th day of each month, MGA shall submit to the City an invoice for that portion of the services actually performed to date, together with the written progress report for that previous month. The City shall pay each such invoice within 30 days after it received the invoice and the progress report and accepts the portion of the services covered. Payment of such invoices will be payment in full for all services under this agreement.

5. City's Responsibility:

A. The City will provide MGA such information relating to the project as MGA may reasonably require to perform its services under the agreement.

B. The City, through its authorized employees and representatives, will cooperate with MGA, will examine documents submitted by MGA as part of the Services and will give any required decisions concerning these submissions as promptly as practicable so as to avoid unreasonable delay in the progress of MGA's work.

6. Ownership and Use of Documents: Upon completion of its services under the agreement, MGA shall give the City all original

documents not already submitted, including drawings, survey notes and reports. These documents will become records of the City. The City will be sole owner of these documents and will retain all rights in them, including the right to submit or distribute them to meet official regulatory requirements and for other purposes in connection with the project.

7. Delays: Extension of Time: Neither party shall be liable or responsible for any delay of the services or the project which is due directly or indirectly to any cause beyond that party's reasonable control, including, but not limited to, strike or other labor dispute, riot, earthquake, fire, adverse weather conditions, failure of labor or material supply, delay in transportation or any other similar or different cause. The party delayed by any such cause shall notify the other party within a reasonable time after becoming aware of the delay. After such notice is given, the time for performing this agreement shall be extended by mutual written agreement for a period reasonably necessary to overcome the effects of the delay.

8. Hold Harmless: All officers, agents, employees, sub-contractors, their agents, officers and employees who are hired by or engaged by MGA in the performance of this agreement shall be deemed officers, agents and employees and sub-contractors of MGA and the City shall not be liable or responsible to them for anything what-so-ever other than the liability to MGA set forth in this agreement.

MGA agrees to reimburse the City or injured party for any damage of any nature whether bodily, property or otherwise caused by itself, its employees, agents or subcontractors in respect to

to the operation of this agreement or the use of any equipment or machinery therefor. MGA agrees to reimburse the City, the City Council and any officer of the City for any damages occasioned thereto by the malfeasance or nonfeasance of said MGA, its employees, agents, subcontractors or employees thereof in request to the operation of this agreement or the use of any vehicle, equipment or machinery in performing this agreement, and said MGA further agrees to hold harmless and defend in all proceedings and courts of law said City, the City Council and all officers of the City in respect to any claim or legal proceeding or judgment made, filed or presented against the foregoing by reason of said malfeasance or nonfeasance.

9. Insurance: MGA shall deposit with the City Certificates of Automobile and General Liability Insurance. Said Certificates of Insurance shall evidence the fact that MGA has in full force and effect comprehensive and bodily injury insurance in the amounts not less than \$500,000 in both the automobile and general liability policies. Each liability Insurance Certificate shall evidence that the coverage afforded therein is primary and shall bear endorsements whereby it is provided that in the event of material change or proposed cancellation of such policies for any reason whatsoever the City shall be notified, in writing, not less than 30 calendar days before the material change or cancellation is effective. If MGA has any employees, MGA shall obtain and maintain in full force and effect throughout the entire term of this agreement full workers' compensation insurance in accordance with provisions and requirements of Division IV, Workers' Compensation and Insurance of the Labor Code of the State of California and other applicable

laws and provide the City with Certificate of such insurance. If MGA has no employees, it shall furnish a statement to the City to that effect.

10. Fair Employment Practices: MGA shall comply fully with the City's Affirmative Action in Contracting Ordinance and to this end.

A. MGA certifies and represents that, during the performance of this agreement, MGA and any other parties with whom it may subcontract shall adhere to equal opportunity employment practices to assure that applicants and employees are treated equally and are not discriminated against because of their race, religious creed, color, national origin, ancestry, handicap, sex or age.

B. MGA shall, in all solicitations or advertisements for applicants for employment placed by or on behalf of MGA, state that MGA is an "Equal Opportunity--Affirmative Action Employer" or that all qualified applicants will receive consideration for employment without regard to their race, religious creed, national origin, ancestry, handicap, sex or age.

C. MGA will, if requested to do so by the City, certify that it has not, in the performance of this agreement, discriminated against applicants or employees because of their membership in a protected class.

D. MGA shall provide the City with access to and, if requested to do so by the City through its rewarding authority or Equal Employment Administrator, provide copies of all of its records pertaining or relating to its employment practices, to the extent such records are not confidential or privileged under state or federal law.

E. MGA shall recruit vigorously and encourage businesses owned by persons who are members of a protected class to bid sub-contractors.

F. Nothing contained in this agreement shall be construed in any manner so as to require or permit any act which is prohibited by law.

A finding by the State Fair Employment Practices Commission that MGA has engaged in any unlawful employment practice (as defined in California Government Code Sections 12900 et seq.) during the term of the agreement shall be deemed a breach of this agreement.

11. Conflict of Interest: In accepting this agreement, MGA certifies that no officer, member or employee of its firm is an officer or employee of the City of Redlands, or member of any commission, board or agency of the City.

12. Termination: This agreement may be terminated with or without cause by the City upon 14 days written notice to MGA. In the event of such termination, MGA shall be compensated for such services up to the point of termination prorated as to the percentage of progress completed at the time of termination. This agreement may be terminated by MGA by providing City with written notice of no less than 30 days in advance of such termination.

13. Independent Contractor Status: MGA is employed hereunder to render a professional service within the scope of its training and experience and MGA only bears a legal relationship with independent contractor to the City with respect to the services performed. As such, the City shall not be called upon to assume any liability for the direct payment of any salary, wage or other compensation to any person employed by MGA to perform the services hereunder.

14. Notices: For purposes of this agreement, sending or giving any notice, invoice or statement by personal delivery or by U. S. mail, postage prepaid, addressed to the other party at its respective address shown herein, shall constitute due service to that party as required by this agreement. Notice given by personal delivery will be effective immediately upon delivery.

15. Extent of Contract; Governing Law: This agreement constitutes the entire agreement between the City and MGA concerning the projects. It supersedes all prior or contemporaneous negotiations, representations and agreements, written or oral. This agreement may only be amended by written instrument signed by MGA and a duly authorized representative of the City.

The construction and interpretation of this agreement and the rights and duties of the parties hereunder (both procedural and substantive), shall be according to the internal laws of the State of California.

16. Successors and Assigns: This agreement shall be binding upon the City and MGA and on their respective successors, executors, administrators and assigns. Neither the City nor MGA may assign or transfer their respective rights or interests under this agreement without the written consent of the other. However, any accounts and monies earned and accrued to MGA hereunder may be assigned by it.

17. Arbitration: Any controversy between the parties hereto involving MGA or application of any of the terms, covenants or conditions to this agreement, on written request of one of the parties served on the other, may be submitted to arbitration and

such arbitration shall comply with and be governed by the principles of California Arbitration Act, Code of Civil Procedure S S 1280-1294.2.

If any action in law or equity or arbitration is brought to enforce the terms of this agreement, the prevailing party shall be entitled to reasonable attorney fees in addition to any other relief to which said party may be entitled.

IN WITNESS WHEREOF, the parties hereto have executed this agreement, in duplicate at Redlands, California, this 9th day of February, 1989.

City of Redlands

Melvyn Green & Associates, Inc.

By Barbara C. Warner
Mayor

By Melvyn Green
Melvyn Green

ATTEST

Joanne G. Gypen
City Clerk