

AGREEMENT FOR PUBLIC IMPROVEMENT PROJECT

This Agreement is made and entered into this 18th day of April, 2006, by and between the City of Redlands, a municipal corporation ("City"), and Rymax Electrical, Inc. ("Contractor"). City and Contractor are individually sometimes referred to herein as a "Party," and together as the "Parties."

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

ARTICLE 1 - ENGAGEMENT OF CONTRACTOR

- 1.1 City hereby retains Contractor to replace tree lights to thirty-three (33) Indian Laurel and Cottonwood trees on State Street between Orange and Ninth Streets, and Fifth Street between State Street and Citrus Avenue in the City of Redlands (the "Project").
- 1.2 Contractor and its subcontractors shall possess all appropriate State contractors' licenses required for the work to be performed in connection with the Project, and shall not be debarred pursuant to Labor Code sections 1777.1 and 1777.7.

ARTICLE 2 - RESPONSIBILITIES OF CONTRACTOR

- 2.1 The Project which Contractor shall perform is particularly described in Exhibit "A," which is attached hereto and incorporated herein by this reference.
- 2.2 Contractor shall comply with all applicable Federal, State and local laws and regulations in the performance of the Project including, but not limited, to all applicable Labor Code and prevailing wage laws commencing at Labor Code section 1770 et seq. and non-discrimination laws, including the Americans' with Disabilities Act. Pursuant to Labor Code section 1773.2, copies of the prevailing rates of per diem wages as determined by the Director of the California Department of Industrial Relations for each craft, classification or type of worker needed to undertake the Project are on file at City's Administrative Services Department, located at the Civic Center, 35 Cajon Street, Suite 10 (P.O. Box. 3005 mailing), Redlands, California 92373.
- 2.3 Contractor acknowledges that if it violates the Labor Code provisions relating to prevailing wage, that City may enforce such provisions by withholding contract payments to Contractor or its subcontractors pursuant to Labor Code section 1771.6.
- 2.4 Contractor agrees that if it executes an agreement with a subcontractor to perform work on the Project that Contractor shall comply with Labor Code sections 1775 and 1777.7, and shall provide the subcontractor with copies of the provisions of Labor Code sections 1771, 1775, 1776, 1777.5, 1813 and 1815. Contractor acknowledges that the statutory provisions establishing penalties for failure to comply with state wage and hour laws and to pay prevailing wages may be enforced by City pursuant to Labor Code sections 1775 and 1813.
- 2.5 Contractor and its subcontractors shall comply with the provisions of Labor Code section 1776 regarding payroll records maintenance, certifications, retention and inspection.

- 2.6 Contractor acknowledges that eight (8) hours constitutes a legal day's work pursuant to Labor Code section 1810.
- 2.7 Contractor shall comply with the provisions of Labor Code section 1777.5 as to apprenticeships, and Labor Code sections 1771, 1775, 1776, 1777.5 1813 and 1815.
- 2.8 Contractor shall obtain, execute and deliver to City a Labor and Materials Payment Bond, pursuant to Civil Code section 3247, in the form attached hereto as Exhibit "B."

ARTICLE 3 - PERIOD OF SERVICE

- 3.1 Contractor shall commence the Project upon City's delivery to Contractor of a written "Notice to Proceed," and Contractor shall complete the Project in a prompt and diligent manner.

ARTICLE 4 - PAYMENT AND NOTICE

- 4.1 City shall pay Contractor the sum of Fifty-Four Thousand Four Hundred Fifty Dollars (\$54,450.00) as complete compensation for the work Contractor performs on the Project.
- 4.2 Payments by City to Contractor shall be made within thirty (30) days after City's receipt and approval of Contractor's invoice, by warrant payable to Contractor.
- 4.3 All notices shall be made in writing and shall be given by personal delivery or by mail. Notices sent by mail shall be addressed as follows:

City:

Heather Smith
City of Redlands
Downtown Redlands Business Association
PO Box 3005
Redlands, CA 92373

Contractor:

1315 Rymax Electrical, Inc.
1279-A East 9th Street
Upland, CA 91786

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 who notices, bills and payments are to be given by giving notice pursuant to this section 4.3.

ARTICLE 5 - INSURANCE AND INDEMNIFICATION

- 5.1 Contractor's Insurance to be Primary. All insurance required by this Agreement shall be maintained by Contractor for the duration of the Project, and shall be primary with respect to City and non-contributing to any insurance or self-insurance maintained by City.
- 5.2 Workers' Compensation and Employer's Liability
- A. Contractor shall secure and maintain Workers' Compensation and Employer's Liability insurance for its employees throughout the duration of the Project pursuant to Labor Code sections 3700 and 1860, in an amount which meets statutory requirements, with an insurance carrier acceptable to City. The insurance policy shall include a provision prohibiting the policy's modification or cancellation except upon thirty (30) days prior written notice to City. Contractor shall execute and deliver to City a Worker's Compensation Insurance Certification in the form attached hereto as Exhibit "C" prior to commencement of the Project.
- B. Contractor expressly waives all rights to subrogation against City and its elected officials, officers and employees, for losses arising from work performed by Contractor on the Project by expressly waiving Contractor's immunity for injuries to Contractor's employees. Contractor 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 Contractor. This waiver is mutually negotiated by the Parties. This subsection 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 Contractor, its officers, employees and agents.
- 5.3 Hold Harmless and Indemnification. Contractor shall indemnify, hold harmless and defend City and its elected officials, employees and agents from and against any and all claims, losses and liability, including attorneys' fees, arising from injury or death to persons or damage to property occasioned by any act or omission of Contractor, and its officers, employees and agents, in performing the Project.
- 5.4 Assignment. Contractor is expressly prohibited from assigning any of the work associated with the Project without the express prior written consent of City. In the event of mutual agreement by the Parties to assign a portion of the Project, Contractor shall add the assignee as an additional insured to its insurance policies and provide City with the insurance endorsements prior to any work being performed by the assignee. Assignment does not include printing or other customary reimbursable expenses that may be provided in this Agreement.

- 5.5 Comprehensive General Liability Insurance. Contractor shall secure and maintain in force throughout the duration of the Project comprehensive general liability insurance, with carriers acceptable to City, with 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. City shall be named as an additional insured and the insurance policy shall include a provision prohibiting its modification or cancellation 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 the Project.
- 5.6 Business Auto Liability Insurance. Contractor shall have business auto liability coverage, with minimum limits of One Million Dollars (\$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 the Project.

ARTICLE 6 - GENERAL CONSIDERATIONS

- 6.1 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, including fees for in-house counsel of the Parties at rates prevailing in San Bernardino County, California.
- 6.2 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 Contractor for the Project shall become the property of City and shall be delivered to City upon completion of the Project.
- 6.3 Contractor and City agree that Contractor is, for all purposes under this Agreement, an independent contractor with respect to the Project and not an employee of City. All personnel employed by Contractor to perform the Project are for its account only, and in no event shall Contractor 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.
- 6.4 Unless earlier terminated as provided for below, this Agreement shall terminate upon completion and acceptance of the Project by City.
- 6.5 Upon receipt of a termination notice, Contractor shall (1) promptly discontinue all work associated with the Project 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 Contractor in performing the Project. Contractor shall be compensated on a pro-rata basis for any work completed up until notice of termination.

- 6.6 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 and verbal agreements relating to the subject matter hereof 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 Contractor.
- 6.7 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

Jon Harrison
Mayor

Donna Payne
City Clerk

RYMAX ELECTRICAL, INC.

By

John Hume
Date 4-6

Exhibit "B"**PAYMENT BOND**

WHEREAS, the City Council of the City of Redlands, State of California (hereinafter designated as "City"), and _____ (hereinafter designated as "Principal") have entered into an agreement whereby Principal agrees to install and complete certain designated public improvements, which by said agreement dated _____, 2006, and identified as Contract No. _____, is hereby referred to and made a part hereof; and

WHEREAS, under the terms of said agreement, Principal is required before entering upon the performance of the work, to furnish a good and sufficient labor and materials payment bond with the City to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California.

NOW, THEREFORE, said Principal and the undersigned as corporate surety, are held and firmly bound unto the City and all contractors, subcontractors, laborers, materialmen, and any other persons employed in the performance of the aforesaid agreement and referred to in the aforesaid Civil Code of the State of California in the sum of dollars (\$_____) for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said surety will pay the same in an amount not exceeding the amount herein above set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

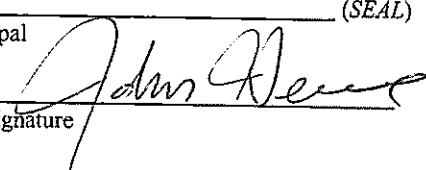
IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and surety named,

on _____, 2006.

Bond No. _____

Principal _____ (SEAL)

Surety (SEAL)

By:  By: _____
Signature

Signature

Address: _____

(Notarial Acknowledgments of Principal and Surety)

Telephone: (____) _____

Exhibit "C"
WORKERS' COMPENSATION INSURANCE CERTIFICATION

Contract No. _____

Every employer except the State, shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation in one or more insurer duly authorized to write compensation insurance in this State.
- (b) By securing from the Director of Industrial Relations, a certificate of consent to self-insure, either as an individual employer or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees.

I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this contract. (Labor Code §1861).

April 6, 2006
Date

Rymax Electric, Inc.
Name of Contractor

By: *John Hume*
Signature of Authorized Agent

Pres.
Signatory's Title

621770
Contractor's License No.

Date

03/16/2006 10:48 9099852551

RYMAX

PAGE 02



Proposal

Number: P0616

Date: March 16, 2006

Submitted To:

City of Redlands
P. O. Box 3005
Redlands, CA 92373

Atta!

Rick Cross

Project	
Downtown tree lights	
Description	Amount
Re: Tree lighting for Downtown	
Price includes:	
Provide and install approx. 200' Average 12v rope light per tree. Similar to test tree.	
Price per tree is \$1650.00 each	
Total	\$0.00

Payment terms are NET 30 DAYS unless otherwise specified in contract. Proposal not valid after 30 days from proposal date.

Acceptance of Proposal:

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as stated above.

Authorized Signature

Date _____

1315 East 9th Street • Upland, CA 91786 • (909) 985-7250 • Fax (909) 985-2551 • Lic # 621770

Bond No. CE2940
Premium: \$1,089.00

Exhibit "B"

PREMIUMS FOR CONTRACT TERM
AND IS SUBJECT TO ADJUSTMENT
BASED ON FINAL CONTRACT PRICE

PAYMENT BOND

WHEREAS, the City Council of the City of Redlands, State of California (hereinafter designated as "City"), and Rymax Electric, Inc. (hereinafter designated as "Principal") have entered into an agreement whereby Principal agrees to install and complete certain designated public improvements, which by said agreement dated April 18 2006, and identified as Contract No. **, is hereby referred to and made a part hereof; and

WHEREAS, under the terms of said agreement, Principal is required before entering upon the performance of the work, to furnish a good and sufficient labor and materials payment bond with the City to secure the claims to which reference is made in Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code of the State of California.

NOW, THEREFORE, said Principal and the undersigned as corporate surety, are held and firmly bound unto the City and all contractors, subcontractors, laborers, materialmen, and any other persons employed in the performance of the aforesaid agreement and referred to in the aforesaid Civil Code of the State of California in the sum of *** dollars (\$ 54,450.00) for materials furnished or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, that said surety will pay the same in an amount not exceeding the amount herein above set forth, and also in case suit is brought upon this bond, will pay, in addition to the face amount thereof, costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the City in successfully enforcing such obligation, to be awarded and fixed by the court, and to be taxed as costs and to be included in the judgment therein rendered.

***Fifty four thousand four hundred fifty & no/100
It is hereby expressly stipulated and agreed that this bond shall inure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 15 (commencing with Section 3082) of Part 4 of Division 3 of the Civil Code, so as to give a right of action to them or their assigns in any suit brought upon this bond.

Should the condition of this bond be fully performed, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

IN WITNESS WHEREOF, this instrument has been duly executed by the Principal and surety named,

on April 18, 2006.

Bond No. CE2940

Rymax Electric, Inc. (SEAL)
Principal

By: [Signature] By: [Signature]
Signature

Contractors Bonding (SEAL)
Surety and Insurance Company

Rebecca Haas-Bates
Signature Rebecca Haas-Bates

Attorney-in-Fact

Address:
Contractors Bonding and Insurance Company
111 Pacifica, Suite 315
Irvine, CA 92618
Telephone: (949) 341-9110

(Notarial Acknowledgments of Principal and Surety)

**Replace tree lights to thirty-three (33) Indian Laurel and Cottonwood Trees on State Street between Orange and Ninth Streets, and Fifth Street between State Street and Citrus Avenue in the City of Redlands
UJM: Agree Rymax Electrical - Improvement Project 4-5-06



LIMITED POWER OF ATTORNEY

Not Valid for Bonds

Power of Attorney

Executed On or After: JANUARY 31ST, 2007

Number: 985289

READ CAREFULLY - to be used only with the bond specified herein

Only an unaltered original of this Power of Attorney document is valid. A valid original of this document is printed on gray security paper with black and red ink and bears the seal of Contractors Bonding and Insurance Company (the "Company"). The original document contains a watermark with the letters "cbic" embedded in the paper rather than printed upon it. The watermark appears in the blank space beneath the words "Limited Power of Attorney" at the top of the document and is visible when the document is held to the light. This document is valid solely in connection with the execution and delivery of the bond bearing the number indicated below, and provided also that the bond is of the type indicated below. This document is valid only if the bond is executed on or before the date indicated above.

KNOW ALL MEN BY THESE PRESENTS, that the Company does hereby make, constitute and appoint the following: SERGIO D. BECHARA, LEONARD ZIMINSKY, WILLIAM SYRKIN, CLOE BIERMAN, REBECCA HAAS-BATES and JOAN M. WYNN its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver on behalf of the Company: (1) any and all bonds and undertakings of suretyship given for any purpose, provided, however, that no such person shall be authorized to execute and deliver any bond or undertaking that shall obligate the Company for any portion of the penal sum thereof in excess of \$10,000,000, and provided, further, that no Attorney-in-Fact shall have the authority to issue a bid or proposal bond for any project where, if a contract is awarded, any bond or undertaking would be required with penal sum in excess of \$10,000,000; and (2) consents, releases and other similar documents required by an obligee under a contract bonded by the Company. This appointment is made under the authority of the Board of Directors of the Company.

CERTIFICATE

I, the undersigned secretary of Contractors Bonding and Insurance Company, a Washington corporation, DO HEREBY CERTIFY that this Power of Attorney remains in full force and effect and has not been revoked, and, furthermore, that the resolutions of the Board of Directors set forth on the reverse are now in full force and effect.

Bond Number CE2940

Signed and sealed this 18th day of April, 2006.

R. Kirk Eland, Secretary

Not Valid
Unless Seal
Affixed

CBIC • 1213 Valley Street • P.O. Box 9271 • Seattle, WA 98109-0271
(206) 622-7053 • (800) 765-CBIC (Toll Free) • (800) 950-1558 (FAX)

PoaLPOA.07-US051104

STATE OF California

COUNTY OF Orange

} SS.

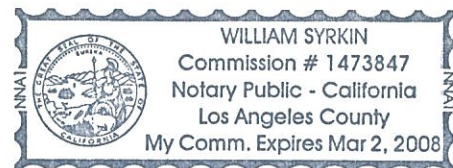
On 04/18/06, before me, William Syrkin, Notary Public

PERSONALLY APPEARED Rebecca Haas-Bates

personally known to me ~~XXXXXX XXXXXX XXXXXX XXXXXX XXXXXX~~
~~XXXXXX~~ 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.

WITNESS my hand and official seal.

Signature



This area for Official Notarial Seal

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)

- ☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☒ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER: _____

SIGNER IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OF TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

State of California

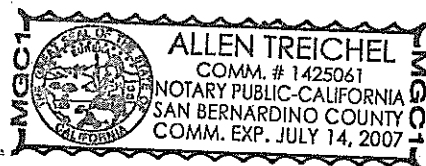
County of San Bernardino

On 4-19-06 before me, Allen Treichel - Notary Public
(DATE) (NAME/TITLE OF OFFICER-i.e. "JANE DOE, NOTARY PUBLIC")

personally appeared John Hewitt
(NAME(S) OF SIGNER(S))

☐ personally known to me -OR- ☒

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.



Witness my hand and official seal.

(SEAL)

(SIGNATURE OF NOTARY)

ATTENTION NOTARY

The information requested below and in the column to the right is **OPTIONAL**. Recording of this document is not required by law and is also optional. It could, however, prevent fraudulent attachment of this certificate to any unauthorized document.

THIS CERTIFICATE
MUST BE ATTACHED
TO THE DOCUMENT
DESCRIBED AT RIGHT:

Title or Type of Document _____
Number of Pages _____ Date of Document _____
Signer(s) Other Than Named Above _____

RIGHT THUMBPRINT (Optional)

TOP OF THUMB HERE

CAPACITY CLAIMED BY SIGNER(S)

☐ INDIVIDUAL(S)

☐ CORPORATE _____

OFFICER(S) _____

(TITLES)

☐ PARTNER(S) ☐ LIMITED

☐ GENERAL

☐ ATTORNEY IN FACT

☐ TRUSTEE(S)

☐ GUARDIAN/CONSERVATOR

☐ OTHER: _____

SIGNER IS REPRESENTING:

(Name of Person(s) or Entity(ies))

RIGHT THUMBPRINT (Optional)

TOP OF THUMB HERE

CAPACITY CLAIMED BY SIGNER(S)

☐ INDIVIDUAL(S)

☐ CORPORATE _____

OFFICER(S) _____

(TITLES)

☐ PARTNER(S) ☐ LIMITED

☐ GENERAL

☐ ATTORNEY IN FACT

☐ TRUSTEE(S)

☐ GUARDIAN/CONSERVATOR

☐ OTHER: _____

SIGNER IS REPRESENTING:

(Name of Person(s) or Entity(ies))

