

AGREEMENT FOR PUBLIC IMPROVEMENT PROJECT

This Agreement is made and entered into this 6th day of November, 2007, by and between the City of Redlands, a municipal corporation ("City"), and Hinkley and Associates, Inc., a California corporation ("Contractor"). City and Contractor are sometimes individually 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 perform building alterations to facilitate the City's One Stop Permitting Center within the City's Municipal Utilities Department (the "Project").
- 1.2 Contractor and its subcontractors shall possess all appropriate State contractor's 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 more 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 If Contractor executes an agreement with a subcontractor to perform work on the Project, 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 Prior to commencing the Project, 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 fully complete the Project by December 31, 2007.

ARTICLE 4 - PAYMENT AND NOTICE

- 4.1 City shall pay Contractor the sum of Twenty-Eight Thousand One Hundred Thirteen Dollars (\$28,113.00) as total 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 in writing and shall be given by personal delivery or by United States mail. Notices sent by mail shall be addressed as follows:

City:

Janet Miller
Municipal Utilities Department
City of Redlands
PO Box 3005
Redlands, CA 92373

Contractor:

Jeff E. Hinkley
Hinkley and Associates, Inc.
6962 Boulder Avenue
Highland, CA 92346

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 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 1860 and 3700, in an amount which meets statutory requirements, with an insurance carrier acceptable 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's obligation to indemnify, defend and hold City 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.

5.2 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. This Section 5.2 shall survive any termination or expiration of this Agreement.

5.3 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 required by this Agreement 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.

- 5.4 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.
- 5.5 Business Auto Liability Insurance. Contractor shall secure and maintain 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. Such coverage shall include all Contractor 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 the insurance policy shall include a provision prohibiting its modification or cancellation except upon thirty (30) days prior written notice to the 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.

ARTICLE 6 - GENERAL CONSIDERATIONS

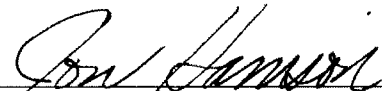
- 6.1 In the event any action is commenced to enforce or interpret any of the terms or conditions of this Agreement the prevailing Party shall, in addition to any costs and other relief, be entitled to recover its reasonable attorneys' fees, including fees for the use of in-house counsel by a Party.
- 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 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.

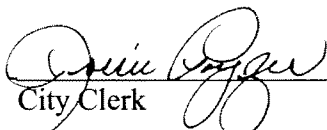
- 6.5 Upon receipt of a termination notice, Contractor shall (1) promptly discontinue all work associated with the Project and (2) deliver or otherwise make available to City, copies of any data, design calculations, drawings, specifications, reports, estimates, summaries, and such other information 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 Exhibits 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.

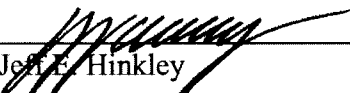
CITY OF REDLANDS

ATTEST:

By 
Jon Harrison, Mayor


City Clerk

Hinkley and Associates, Inc.

By 
Jeff E. Hinkley

Date 11-1-07

EXHIBIT "A"

Perform the following scope of work in conformance with the City's Uniform Building Code:

- Demo existing wall and frame opening to provide support to loft area.
- Remove carpet and install tile to match as close to existing as possible in lobby area.
- Furnish and install window.
- Construct new wall with standard door.
- Demo existing wall and construct new walls including hallway.
- Close in space between office and stairs.
- Drywall, tape and texture to match existing.
 - Thoroughly clean and remove all related debris.

Exhibit "B"

PAYMENT BOND

WHEREAS, the City Council of the City of Redlands, State of California (hereinafter designated as "City"), and Hinkley and Associates, 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 November 6, 2007 and identified as Agreement for Public Improvement Project, for Building Alterations to Facilitate the One Stop Permit Center, 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 (\$28,113) 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 _____, 2007.

Bond No.

Principal

Surety

By: _____
Signature

By: _____
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).

Date

Name of Contractor

By: _____
Signature of Authorized Agent

Signatory's Title

Contractor's License No.

Date

Premium for contract term
and is subject to adjustment
based on final contract price

Bond No. 12036324

Premium: \$600.00

Issued in six original counterparts

Exhibit "B"

PAYMENT BOND

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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 (\$28,113) 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.

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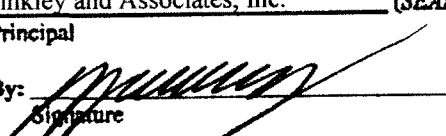
The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of 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 November 8th, 2007.

Bond No.

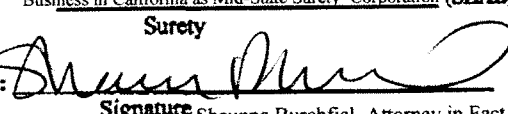
Hinkley and Associates, Inc. (SEAL)
Principal

By: 

Signature

The Guarantee Company of North America USA Doing
Business in California as Mid-State Surety Corporation (SEAL)

Surety

By: 

Signature Shaunna Burchfiel, Attorney in Fact

Address: 1800 Sutter St., Suite 735, Concord, CA 94520

(Notarial Acknowledgments of Principal and Surety)

Telephone: (925) 566-6040

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Los Angeles

} ss.

On November 8th, 2007, before me, Traci Larson, Notary Public

Date

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Shaunna Burchfiel, Attorney in Fact

Name(s) of Signer(s)

☒ personally known to me

☐ 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.

Traci Larson

Signature of Notary Public

Place Notary Seal Above

OPTIONAL

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

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer

Signer's Name: _____

☐ Individual

☐ Corporate Officer — Title(s): _____

☐ Partner — ☐ Limited ☐ General

☒ Attorney in Fact

☐ Trustee

☐ Guardian or Conservator

☐ Other: _____

Signer Is Representing: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

THE GUARANTEE COMPANY OF NORTH AMERICA USA
Doing business in California as Mid-State Surety Corporation
SOUTHFIELD, MICHIGAN 48075
POWER OF ATTORNEY

Know All Men By These Presents:

"That The Guarantee Company of North America USA, a corporation of the State of Michigan, having its principal office in the City of Southfield, Michigan (doing business in California as Mid-State Surety Corporation) pursuant to authority granted by a resolution of its Board of Directors, which read as follows:

The President, the Vice President, or the Treasurer of this Corporation shall have authority to appoint in writing such attorneys-in-fact, as the business of the Corporation may require, and to authorize such attorneys-in-fact, and each of them to execute on behalf of the Corporation, any bonds, recognizance's, stipulations, contracts of indemnity and other undertakings of like character, or to exercise any lesser number of said powers as hereinbefore set forth.

"Said appointments shall be attested by the Secretary or a Vice President of this Corporation under its seal. The signature of the Secretary or any Vice president to certified copies of such powers of attorney may be original or facsimile, and when the corporate seal is affixed thereto, any third party may rely on said certified copies of powers of attorney as the act and deed of this Corporation. The President, the Vice President, or Treasurer may revoke any appointment made pursuant hereto, and revoke any and all authority conferred by any such appointment."

Does hereby nominate, constitute and appoint

George Burefiel, Shaunna Burchfiel
Risk Transfer Associates Insurance Agency, Inc.

Its true and lawful Attorney-in-Fact, to make, execute, seal and deliver for and on its behalf, as surety, and its act an deed.

Any and all bonds, for or on behalf of this Company in its business and in accordance with its charter, and to bind The Guarantee Company of North America USA, thereby, and all of the acts of said Attorney-in-Fact, pursuant to these presents, are hereby ratified and confirmed.

IN WITNESS WHEREOF, The Guarantee Company of North America USA, Southfield, Michigan, has caused these presents to be signed by its proper officer.

And its corporate seal to be hereunto affixed this 7th day of August, 2006.



The Guarantee Company of North America USA
Doing business in California as Mid-State Surety Corporation

Jules Quenneville

Jules Quenneville, President

STATE OF MICHIGAN, COUNTY OF WAYNE

On this 7th day of August, 2006, personally came before me Jules Quenneville, to me known to be the individual and officer of The Guarantee Company of North America USA of Southfield, Michigan, who executed the above instrument, and acknowledged the execution of the same, and being by me duly sworn, did severally depose and say: that he is the said officer of the Corporation aforesaid and the seal affixed to the above instrument is the seal of the corporation, and that said corporate seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority of the Board of Directors of said Corporation.

Cynthia A. Takai
Notary Public, State of Michigan
County of Oakland
My Commission Expires February 27, 2012
Acting in Oakland County

IN WITNESS WHEREOF, I have hereunto set my hand at The Guarantee Company of North America USA offices the day and year above written.

Cynthia A. Takai

I, the undersigned, Vice President of The Guarantee Company of North America USA of Southfield, Michigan, a Michigan corporation, do HEREBY CERTIFY that the foregoing Power of Attorney remains in full force and has not been revoked, and furthermore that the provisions of the By-Laws of the company and the Resolutions of the Board of Directors set forth in the Power of Attorney, are still in force.

Signed and sealed at the City of Southfield, this 8th day of November 2007



Stephen Dullard
Stephen Dullard, Vice President

Exhibit "C"

WORKERS' COMPENSATION INSURANCE CERTIFICATION

Contract No. 2007117

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).

12 NOVEMBER 2007

Date

HINKLEY AND ASSOCIATES, INC.

Name of Contractor

By: [Signature]

Signature of Authorized Agent

VP OF OPERATIONS

Signatory's Title

760789

Contractor's License No.

12 NOVEMBER 2007

Date