

AGREEMENT FOR PUBLIC IMPROVEMENT PROJECT

This Agreement is made and entered into this 3rd day of June, 2003, by and between the City of Redlands, a municipal corporation ("City") and F.M. Electric, Inc. ("Contractor").

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 for the installation of the North Orange well field electrical equipment for the North Orange Wellfield Well No. 2 Project (the "Services").**
- 1.2 Contractor and its subcontractors shall possess the appropriate State Contractors License required for the work to be performed as set forth in this Agreement and shall not be debarred pursuant to California Labor Code sections 1777.1 and 1777.7.**

ARTICLE 2 - RESPONSIBILITIES OF CONTRACTOR

- 2.1 The specific services, which Contractor shall perform, are more particularly described in Exhibit "A," entitled "Scope of Work" which is attached hereto and incorporated herein by this reference.**
- 2.2 Contractor 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 commencing at California Labor Code section 1770 et. seq. and non-discrimination laws including the American's with Disabilities Act. Pursuant to California 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 execute this agreement are on file at the City of Redlands office of the Municipal Utilities Department, Civic Center, 35 Cajon Street, Suite 15A (P.O. Box. 3005 mailing), Redlands California 92373.**
- 2.3 Contractor further understands that if it violates the California Labor Code as it relates to prevailing wage, that City shall enforce the California Labor Code by Notice of the withholding of contract payments to the Contractor or Subcontractor pursuant to Labor Code section 1771.6.**
- 2.4 Contractor agrees that if it executes an agreement with a subcontractor to work on this Project, that the Contractor shall comply with California Labor Code section 1775 and 1777.7 including providing the subcontractor with copies of the provisions of Sections 1771, 1775, 1776, 1777.5, 1813 and 1815 of the Labor Code. Contractor acknowledges that the statutory provisions for penalties for failure to comply with state wage and hour laws and to pay prevailing wages will be enforced by the City pursuant to labor Code sections 1775 and 1813.**

- 2.5 Contractor and any of its Subcontractors shall comply with the provisions of California 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 Section 1771, 1775, 1776, 1777.5 1813 and 1815 of the California Labor Code.

ARTICLE 3 - PERIOD OF SERVICE

- 3.1 Contractor shall perform the Services in a prompt and diligent manner.

ARTICLE 4 - PAYMENT AND NOTICE

- 4.1 For the performance of the Services, City will pay Contractor the sum of \$24,185.00
- 4.2 Payments by City to Contractor shall be made within 30 days after receipt and approval of Contractor's hereinabove invoice, by warrant payable to Contractor.
- 4.3 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: Lonny L. Young
City of Redlands
Municipal Utilities Department
PO Box 3005
Redlands, CA 92373

Contractor: Mark Maddox
F. M. Electric, Inc.
1529 W. 13th Street Suite G
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 whom notices, bills and payments are to be given by giving notice pursuant to this paragraph.

ARTICLE 5 - INSURANCE AND INDEMNIFICATION

5.1 Contractor's Insurance to be Primary

All insurance required by this Agreement is to be maintained by Contractor 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. Contractor shall provide City with Certificates of Insurance and endorsements evidencing such insurance prior to commencement of work.

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 this Agreement pursuant to California Labor Code sections 3700 and 1860 and in an amount which meets the statutory requirement with an insurance carrier acceptable to City as set forth in attached Exhibit "B". 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. Contractor expressly waives all rights to subrogation against City, its elected officials, officers and employees for losses arising from work performed by Contractor for City by expressly waiving Contractor's immunity for injuries to Contractor'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 Contractor. 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 Contractor, its officers, agents and employees.
- C. Contractor shall sign the Worker's Compensation Insurance Certification attached as Exhibit "B" to this Agreement.

5.3 Hold Harmless and Indemnification. Contractor 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 Contractor, its officer, agents and employees in performing the Services required by this Agreement.

5.4 Assignment. Contractor 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, Contractor 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.

- 5.5 **Comprehensive General Liability Insurance.** Contractor 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.
- 5.6 **Business Auto Liability Insurance.** Contractor 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 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.
- 6.2 Contractor 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.
- 6.3 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 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.
- 6.4 Contractor and City agree that Contractor 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 Contractor pursuant to the provisions of this Agreement are to be employed by

Contractor 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.

- 6.5 Unless earlier terminated as stipulated below, this Agreement shall terminate upon completion and acceptance by City of the Services.
- 6.6 Upon receipt of a termination notice, Contractor 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 Contractor in performing the Services required by this Agreement. Contractor shall be compensated on a pro-rata basis for any work completed up until notice of termination.
- 6.7 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 Contractor.
- 6.8 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 June 3, 2003

F. M. ELECTRIC, INC.

By 
Mark Maddox, President

Date May 29, 2003

Exhibit "A"

Scope of work

INSTALLATION OF ELECTRICAL EQUIPMENT

F. M. Electric is pleased to offer the following quote for the installation of electrical equipment for The City of Redlands Orange Well Field Project Well #2. Quote includes all Electrical Equipment Installation for the complete operation of Redlands Orange Well Field Project Well # 2.

Items listed for Proposal

1) *Installation of Southern California Edison Equipment Slab Boxes:*

1. Install Edison Slab Boxes at Well Site #1
2. Install Conduits for primary and secondary of transformer per SCE Specifications
3. Install Temporary 800amp Meter Pole for well site #2
4. Coordinate with SCE for installation of new transformer and temporary power service

All electrical equipment and material to be supplied by others.

2) *Installation of Conduits, Conductors and Pull Boxes:*

1. Install 4" & 2" PVC sch 40 Conduit from Meter Section to Well #2 MCC (600ft)
2. Install Pull Boxes as Needed
3. Install all conduits at well site as required per site drawing.
4. All feeder conduits for well site #2 will be installed on east side of Orange St.

3) *Installation of Motor Control Section Well #2:*

1. Install house keeping
2. Install MCC per site drawings
3. Install all conduits need for complete operation of Well #2
4. Install all field wiring for Well #2
5. Test all Electrical Equipment

4) *Items Not Include:*

1. Permits or Fees required by The City OF Redlands or Southern California Edison.
2. Removal or Replacement of Embankment, Landscaping and Irrigation Systems.
3. Not responsible for Street Crossing. (Utilize existing Edison Conduits on east side of Orange St.)
4. Not responsible for any Programming or Installation of SCADA System. (Will Provide conduits and wiring as needed)

EXHIBIT "B"

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).

May 29, 2003
Date

F.M. Electric, Inc.
Name of Contractor

By: [Signature]
Signature of Authorized Agent

President
Signatory's Title

817890
Contractor's License No.

May 29, 2003
Date