

AGREEMENT

THIS AGREEMENT, made and entered into this 3rd day of February, 1998, by and between the City of Redlands, a Municipal Corporation, organized and existing under the laws of the State of California, hereinafter referred to as the "City" and Schuler Engineering Corporation of the City of Riverside, County of Riverside, State of California, hereinafter referred to as the "Contractor".

WITNESSETH: That the City and the Contractor, for the consideration hereinafter named, agree as follows:

1. **SCOPE OF WORK:** The Contractor will furnish all materials and will perform all of the work for the following:

Removal of 19 natural gas engines from City pumping facilities, installation of 19 electric motors, motor control centers, transformers, pumps, mechanical piping modifications, and all associated components as shown on the drawings and required by the Contract Document and Specifications for **Natural Gas Engines Conversion to Electric Motors, Project No. 1-9808**.

2. **THE CONTRACT SUM:** \$1,962,000 in accordance with the terms and conditions set forth in the Contract Documents.

3. **TIME FOR COMPLETION:** The work to be completed within **three hundred sixty five (365)** calendar days from and after the date of the Notice to Proceed.

4. **LIQUIDATED DAMAGES:** Failure of the Contractor to complete the work within the time allowed will result in damages being sustained by the City. Such damages are, and will continue to be, impracticable and extremely difficult to determine. The Contractor shall pay to the City, or have withheld from monies due it, the sum of **\$500** for each consecutive calendar day in excess of the specified time for completion of Work.

Execution of the Contract shall constitute agreement by the City and Contractor that **\$500** per day is the minimum and actual damage caused by the failure of the Contractor to complete the Work within the allowed time. Such sum is liquidated damages and shall not be construed as a penalty, and may be deducted from payments due the Contractor if such delay occurs.

5. **CONTRACT DOCUMENTS:** The complete contract includes all of the contract documents set forth herein, to wit; Notice Inviting Bids, Instructions to Bidders, Proposals and Bid Form, Bid Bond, Agreement, Faithful Performance Bond, Labor and Material Bond, Plans and Specifications and any addenda thereto.

6. **ATTORNEYS' FEES:** In the event any legal action is commenced to enforce or interpret the terms or conditions of the contract documents, the prevailing party in such action, in addition to any costs and other relief, shall be entitled to recover its reasonable attorneys' fees.

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7. **RESOLUTION OF CONSTRUCTION CLAIMS:** Claims by the Contractor in the amount of \$375,000.00 or less shall be made by Contractor and processed by the City pursuant to the provisions of Part 3, chapter 1, article 1.5 of the Public Contracts Code (commencing with Section 20104). All claims shall be in writing and include the documents necessary to substantiate the claim. Nothing in subdivision (a) of Public Contracts Code Section 20104.2 shall extend the time limit or supersede the notice requirements provided in this case from filing claims by Contractor.

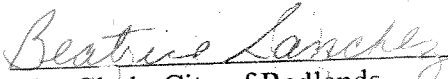
IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first written above.

(SEAL)

City of Redlands
(Owner)

By: 
Mayor, City of Redlands, County of
San Bernardino, California

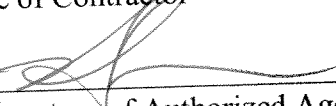
ATTEST:

 Deputy
City Clerk, City of Redlands
County of San Bernardino, California

(SEAL)

Schuler Engineering Corporation

Name of Contractor

By: 
Signature of Authorized Agent

President

Title

Signature of Authorized Agent (if necessary)

Title

389852

Contractor's License No.

WORKERS' COMPENSATION INSURANCE CERTIFICATION

Description of Contract: City of Redlands
Municipal Utilities Department
Natural Gas Engines Conversion to Electric Motors
Project No. 1-9808

Labor Code section 3700 provides, in part:

"Every employer except the State and all political subdivisions or institutions thereof, 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, 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 employees"

I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for worker's 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.

Dated this 5th day of February, 1998.

Schuler Engineering Corporation

(Contractor)


(Signature)

President

(Official Title)

(Seal)

(Labor Code Section 1861 provides that the above certificate must be signed and filed by the Contractor with the Owner prior to performing any work.)

Bond No. 8081566

PERFORMANCE BOND

WHEREAS, the City Council of the City of Redlands, State of California, and Schuler Engineering Corporation, (hereinafter designated as "Principal") have entered into an agreement whereby Principal agrees to install and complete certain designated public improvements, which said agreement, date _____, 1998, and identified as **Natural Gas Engines Conversion to Electric Motors, Project No. 1-9808** is hereby referred to and made a part hereof; and

WHEREAS, said Principal is required under the terms of said agreement to furnish a bond for the faithful performance of said project.

Now, Therefore, said Principal and Fidelity and Deposit Company of Maryland, as surety, are held firmly bound unto the City of Redlands (hereinafter called "City") in the penal sum of One Million Nine Hundred Sixty Two Thousand Dollars (\$1,962,000) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The condition of this obligation is such that if the above bounded Principal, his or hers heirs, executors, administrator, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said agreement and any alternation thereof made as therein provided, or his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall defend, indemnify and save harmless the City, its elected officials, officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As part of the obligation secured hereby and in addition to the face amount specified therefore, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees incurred by the City in successfully enforcing such obligation, all to be taxed as costs and included in any judgement rendered.

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 anyway affect is 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 above names, on
Feb. 5, _____, 1998

(SEAL)

(SEAL)

Schuler Engineering Corporation

(Contractor)

(Signature)

Fidelity and Deposit Company of Maryland

(Surety)

(Signature)

Michael R. Langan, Attorney-in-Fact

Address: 2550 N. Hollywood Way #201

Burbank, CA. 91505

Telephone No. (818) 846-4100

(Seal and Notarial Acknowledgment of Surety)

Power of Attorney
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
HOME OFFICE, BALTIMORE, MD

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by C. M. PECOT, JR., Vice-President, and C. W. ROBBINS, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, does hereby nominate, constitute and appoint Michael R. Langan of Pasadena, California,

its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: any and all bonds and undertakings.....

And the execution of such bonds or undertakings in pursuance of these presents shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney revokes that issued on behalf of Michael R. Langan, dated, December 19, 1985.

The said Assistant Secretary does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 16th day of April, A.D. 1993

ATTEST:



FIDELITY AND DEPOSIT COMPANY OF MARYLAND

C. W. Robbins
Assistant Secretary

By

C. M. Pecot, Jr.
Vice-President

STATE OF MARYLAND
COUNTY OF BALTIMORE

SS:

On this 16th day of April, A.D. 1993, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, came C. M. PECOT, JR., Vice-President and C. W. ROBBINS, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself depose and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.



CAROL J. FADER

Carol J. Fader
Notary Public

My Commission Expires

August 1, 1996

CERTIFICATE

I, the undersigned, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy, is in full force and effect on the date of this certificate; and I do further certify that the Vice-President who executed the said Power of Attorney was one of the additional Vice-Presidents specially authorized by the Board of Directors to appoint any Attorney-in-Fact as provided in Article VI, Section 2, of the By-Laws of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND.

This Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 16th day of July, 1969.

RESOLVED: "That the facsimile or mechanically reproduced signature of any Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed."

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the said Company, this 5th day of February, 1998.

Gregory Hamilton
Assistant Secretary

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

NO. 5-87

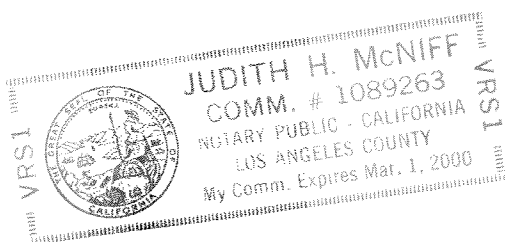
State of California

County of Los Angeles

On Feb. 5, 1998 before me, Judith H. McNiff, Notary Public
DATE NAME, TITLE OF OFFICER - E.G. "JANE DOE, NOTARY PUBLIC"

personally appeared Michael R. Langan
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.

[Signature]
SIGNATURE OF NOTARY

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

- ☐ PARTNER(S) ☐ LIMITED
☐ GENERAL

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

SIGNER IS REPRESENTING:

NAME OF PERSON(S) OR ENTITY(IES)

Fidelity and Deposit Company of
Maryland

DESCRIPTION OF ATTACHED DOCUMENT

Performance Bond
TITLE OR TYPE OF DOCUMENT

1
NUMBER OF PAGES

2-5-98
DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE

Bond No. 8081566

LABOR AND MATERIAL BOND

WHEREAS, the City Council of the City of Redlands, State of California, and Schuler Engineering Corporation (hereinafter designated as "Principal") have entered into an agreement whereby Principal agrees to install and complete certain designated public improvements, which said agreement, dated _____, 1998, and identified as **Natural Gas Engines Conversion to Electric Motors, Project No. 1-9808** 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 file a good and sufficient payment bond with the City of Redlands 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 firmly bound unto the City of Redlands and all contractors, subcontractors, laborers, materialmen, and other persons employed in the performance of the aforesaid agreement and referred to in the aforesaid Code of Civil Procedure in the sum of One Million Nine Hundred Sixty Two Thousand Dollars (\$1,962,000) 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 hereinabove set forth, and also in case suite 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 of Redlands 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 judgement therein rendered.

It is hereby expressly stipulated and agreed that this bond shall insure 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 said agreement or the specifications accompanying the same shall in any manner affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition.

In witness whereof, this instrument has been duly executed by the Principal and surety above named, on Feb. 5, 1998, 19__.

(SEAL)

Schuler Engineering Corporation

(Contractor)

(Signature)

(SEAL)

Fidelity and Deposit Company of Maryland

(Surety)

Michael R. Langan, Attorney-in-Fact

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