

AGREEMENT

THIS AGREEMENT, made and entered into this 20th day of June, 2006, 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 WEKA, Inc. of the City of Redlands, County of San Bernardino, 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:

Construction of the Sewer Pipeline Replacement Project, complete all as required by the Contract Documents and Specifications for **CAPITAL IMPROVEMENT PROGRAM, SEWER PIPELINE REPLACEMENT PROJECT, Project No. 2-0723.**

2. **THE CONTRACT SUM:** \$969,992 in accordance with the terms and conditions set forth in the Contract Documents.

A. Pursuant to Section 22300 of the California Public Contract Code, Contractor has the option to deposit securities with an Escrow Agent as a substitute for retention of earnings requirement to be withheld by City pursuant to an Escrow Agreement as set forth in the Public Contract Code Section 22300.

3. **TIME FOR COMPLETION:** The work under this Contract is to be completed within one hundred (100) 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 the 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 documents under this Agreement includes all of the contract documents set forth herein, to wit; Notice Inviting Bids, Instructions to Bidders, Proposal, Bid Bond, Agreement, Performance Bond, Labor and Material Bond, Plans, General Conditions, Special Conditions, Special Provisions 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.
7. **RESOLUTION OF CONSTRUCTION CLAIMS:** Claims by the Contractor in the amount of \$375,000 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 Contract 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 Contract Code Section 20104.2 shall extend the time limit or supersede the notice requirements provided in this case from filing claims by Contractor.
8. **ELIGIBILITY OF CONTRACTOR/SUBCONTRACTOR:** Contractor and any subcontractors agree to abide by California Public Contract Code, Section 6109, and California Labor Code Sections 1777.1 and/or 1777.7, and certify that they are not debarred and are eligible to work on this project.
9. **ASSIGNMENT OF AGREEMENT:** No assignment by a party hereto of any rights or interests under this agreement will be binding on another party without the written consent of the party sought to be bound.
10. **SUCCESSORS AND ASSIGNS:** City and Contractor each binds itself, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.
11. **SEVERABILITY:** Any provision or part of the contract documents held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon City and Contractor.

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

(SEAL)

City of Redlands
(Owner)

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

ATTEST:

Donna Dyer
City Clerk, City of Redlands
County of San Bernardino, California

(SEAL)

WEKA Inc
Name of Contractor

By: Burt Hulse
Signature of Authorized Agent

PRESIDENT
Title

Signature of Authorized Agent (if necessary)

Title

670100A
Contractor's License No.

WORKER'S COMPENSATION INSURANCE CERTIFICATION

Description of Contract:

City of Redlands
Municipal Utilities Department
**CAPITAL IMPROVEMENT PROGRAM,
SEWER PIPELINE REPLACEMENT PROJECT,
Project No. 2-0723**

Labor Code, Section 3700, provides, in part that:

"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 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. (Labor Code section 1861)

Dated this 28th day of JUNE, 2006.

WEKA INC
(Contractor)
Bertie [Signature]
(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 the work of the contract.)

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

BOND #736396P

PREMIUM: \$12,980

PERFORMANCE BOND

BOND IS ISSUED IN THREE (3) COUNTERPARTS

Whereas, the City Council of the City of Redlands, State of California, and WEKA, Inc. (hereinafter designated as "Principal") have entered into an agreement whereby Principal agrees to install and complete certain designated public improvements, which said agreement, dated June 21, 2006, and identified as **Construction of CAPITAL IMPROVEMENT PROGRAM, SEWER PIPELINE REPLACEMENT PROJECT, Project No. 2-0723** 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 performance of said project.

Now, therefore, said Principal and DEVELOPERS SURETY AND *(1), as surety, are held firmly bound unto the City of Redlands (hereinafter call "City"), in the penal sum of Nine Hundred Sixty-Nine Thousand Nine Hundred and Ninety-Two Dollars (\$969,992) 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 alteration 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 a part of the obligation secured hereby and in addition 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 judgment 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 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 above named, on
June 23 2006

WEKA, INC.

(Contractor)

[Signature]
(Signature)

(SEAL)

DEVELOPERS SURETY AND INDEMNITY COMPANY

(SEAL)

BY:

(Surety)

[Signature]
(Signature) GALE DELO,
ATTORNEY-IN-FACT

Address: FIVE CENTERPOINTE, SUITE 530

LAKE OSWEGO, OR 97035

Telephone (800) 223-2451

(Seal and Notarial Acknowledgment of
Surety)

*(1) INDEMNITY COMPANY

CALIFORNIA ALL PURPOSE ACKNOWLEDGMENT

State of California

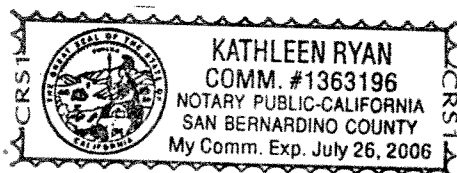
County of San Bernardino

On June 23, 2006 before me Kathleen Ryan, Notary Public

Personally appeared Gale Delo

☒ personally known to me - ~~OR~~ ☐ ~~proved to me on the basis of satisfactory evidence~~

to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.



WITNESS my hand and official seal.

Kathleen Ryan

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)

☐ PARTNERS ☐ LIMITED
☐ GENERAL

☒ ATTORNEY-IN-FACT

☐ TRUSTEE(S)

☐ GUARDIAN/CONSERVATOR

☐ OTHER: _____

DESCRIPTION OF ATTACHED DOCUMENT

Performance Bond
Title or Type of Document

1
Number of Pages

June 23, 2006
Date of Document

SIGNER IS REPRESENTING:

Developers Surety And Indemnity Company

Weka, Inc.
Signer(s) other than Named Above

BOND #736396P

PREMIUM IS INCLUDED IN

PERFORMANCE BOND

LABOR AND MATERIAL BOND

BOND IS ISSUED IN THREE (3) COUNTERPARTS

Whereas, the City Council of the City of Redlands, State of California, and WEKA, Inc. (hereinafter designated as "Principal") have entered into an agreement whereby Principal agrees to install and complete certain designated public improvements, which said agreement, dated June 21, 2006, and identified as **CAPITAL IMPROVEMENT PROGRAM, SEWER PIPELINE REPLACEMENT PROJECT, Project No. 2-0723**, 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, material men 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 Nine Hundred Sixty-Nine Thousand Nine Hundred and Ninety-Two Dollars (\$969,992) 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 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 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 judgment 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
June 23 2006.

WEKA, INC.

(SEAL)

(Contractor)

(Signature)

(Seal and Notarial Acknowledgment of Surety)

DEVELOPERS SURETY AND INDEMNITY COMPANY

(SEAL)

(Surety)

BY:

(Signature)

GALE DELO
ATTORNEY-IN-FACT

Address: FIVE CENTERPOINTE, SUITE 530
LAKE OSWEGO, OR 97035

Telephone (800) 223-2451

CALIFORNIA ALL PURPOSE ACKNOWLEDGMENT

State of California

County of San Bernardino

On June 23, 2006 before me Kathleen Ryan, Notary Public

Personally appeared Gale Delo

[X] personally known to me - ~~OR~~ [] proved to me on the basis of satisfactory evidence

to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.



WITNESS my hand and official seal.

Kathleen Ryan

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)

- [] PARTNERS [] LIMITED
[] TRUSTEE(S) [] GENERAL

[X] ATTORNEY-IN-FACT

- [] GUARDIAN/CONSERVATOR
[] OTHER:

DESCRIPTION OF ATTACHED DOCUMENT

Labor and Material Bond
Title or Type of Document

1
Number of Pages

June 23, 2006
Date of Document

SIGNER IS REPRESENTING:

Developers Surety And Indemnity Company

Weka, Inc.
Signer(s) other than Named Above

**POWER OF ATTORNEY FOR
DEVELOPERS SURETY AND INDEMNITY COMPANY
INDEMNITY COMPANY OF CALIFORNIA**

PO BOX 19725, IRVINE, CA 92623 (949) 263-3300

KNOW ALL MEN BY THESE PRESENTS, that except as expressly limited, DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA, do each, hereby make, constitute and appoint:

Peter M. Davis, Kenzie K. Thompson, Shannon Lopez, Martin M. Davis, George A. DeCristo, Gale Delo, jointly or severally

as their true and lawful Attorney(s)-in-Fact, to make, execute, deliver and acknowledge, for and on behalf of said corporations, as sureties, bonds, undertakings and contracts of suretyship giving and granting unto said Attorney(s)-in-Fact full power and authority to do and to perform every act necessary, requisite or proper to be done in connection therewith as each of said corporations could do, but reserving to each of said corporations full power of substitution and revocation, and all of the acts of said Attorney(s)-in-Fact, pursuant to these presents, are hereby ratified and confirmed.

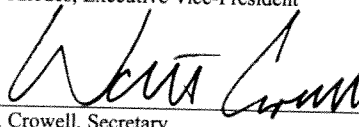
This Power of Attorney is granted and is signed by facsimile under and by authority of the following resolutions adopted by the respective Board of Directors of DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA, effective as of November 1, 2000:

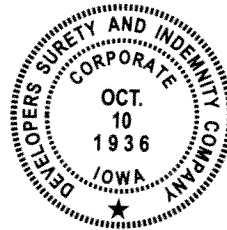
RESOLVED, that the Chairman of the Board, the President and any Vice President of the corporation be, and that each of them hereby is, authorized to execute Powers of Attorney, qualifying the attorney(s) named in the Powers of Attorney to execute, on behalf of the corporations, bonds, undertakings and contracts of suretyship; and that the Secretary or any Assistant Secretary of the corporations be, and each of them hereby is, authorized to attest the execution of any such Power of Attorney;

RESOLVED, FURTHER, that the signatures of such officers may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures shall be valid and binding upon the corporation when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached.

IN WITNESS WHEREOF, DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA have severally caused these presents to be signed by their respective Executive Vice President and attested by their respective Secretary this 1st day of February, 2005.

By: 
David H. Rhodes, Executive Vice-President

By: 
Walter A. Crowell, Secretary

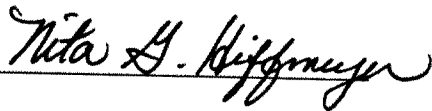


STATE OF CALIFORNIA)
)SS.
COUNTY OF ORANGE)

On February 1, 2005, before me, Nita G. Hiffmeyer, personally appeared David H. Rhodes and Walter A. Crowell, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

Signature





CERTIFICATE

The undersigned, as Executive Vice-President, of DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA, does hereby certify that the foregoing Power of Attorney remains in full force and has not been revoked, and furthermore, that the provisions of the resolutions of the respective Boards of Directors of said corporations set forth in the Power of Attorney, are in force as of the date of this Certificate.

This Certificate is executed in the City of Irvine, California, the 23rd day of June, 2006.

By: 
David L. Kerrigan, Executive Vice-President