

AGREEMENT FOR WELL MOTOR REPLACEMENT

This agreement to supply and install a well motor (“Agreement”) is made and entered into this 18th day of June, 2013 (“Effective Date”), by and between the City of Redlands, a municipal corporation (“City”), and Layne Christensen Company (“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 supply equipment and perform services associated with the replacement of the motor for the California Street Well, (the “Services”) at the north west corner of San Bernardino Avenue and California Street in the City of Redlands (the “Project Site”).
- 1.2 Contractor and its subcontractors shall possess all appropriate State contractors’ licenses required for the work to be performed in connection with the performance of the well motor replacement work, and shall not be debarred pursuant to 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,” 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 Services including, but not limited, to all applicable Labor Code and prevailing wage laws 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 Municipal Utilities and Engineering Department, located at the Civic Center, 35 Cajon Street, Suite 15A (Mailing: P.O. Box 3005), Redlands, California 92373.
- 2.3 Contractor acknowledges that if it violates the Labor Code provisions relating to prevailing wages that City may enforce such provisions by withholding 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 any portion of the Services, 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 guarantee the Services against defective materials or workmanship for a period of (1) year from the date of completion date, except where longer warranty periods for such materials are specifically stated. All work which has been rejected, shall be remedied, removed or replaced, by Contractor, at its own expense. Any omission or failure on the part of City to discover, or notify Contractor of, defective work or material at the time of construction shall not be deemed acceptance of such work or materials by City, and Contractor shall correct such defective work or materials prior as a condition of City's acceptance of the Services. During the (1) one year warranty period, should Contractor fail to remedy defective material and/or workmanship within five (5) business days after written notice by City, City may remedy the same, and the cost therefor shall be chargeable to, and payable by, Contractor. Nothing in this section 2.8 shall be construed to limit the right of City to immediately correct conditions which may adversely affect the public health, safety or welfare. Should such unsafe conditions later be found to be caused by Contractor's defective material or workmanship, Contractor shall reimburse the City for the costs reasonably incurred by City in correcting such conditions.
- 2.9 Before commencing the Services, Contractor shall, in accordance with Civil Code section 9550, provide City with a Labor and Materials Payment Bond in the form attached hereto as Exhibit "B."

ARTICLE 3 - PERIOD OF SERVICE

- 3.1 Contractor shall commence the Services upon City's delivery to Contractor of a written "Notice to Proceed."
- 3.2 Contractor shall complete the Services within five (5) calendar days from and after the date of City's issuance to Contractor of the Notice to Proceed.

ARTICLE 4 - PAYMENT AND NOTICE

- 4.1 City shall pay Contractor the sum of Forty Eight Thousand Six Hundred Sixty Eight Dollars and Seventy Cents (\$48,668.70) as complete compensation for the Services.

- 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:
Chris Diggs
Municipal Utilities and Engineering Department
City of Redlands
P.O. Box 3005
Redlands, CA 92373

Contractor:
Dennis Skinner
Layne Christensen Company
1717 Park Avenue
Redlands, CA 92373

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 are to be given by giving notice pursuant to this section 4.3.

ARTICLE 5 - INSURANCE AND INDEMNIFICATION

- 5.1 All insurance required by this Agreement shall be maintained by Contractor throughout Contractor's performance of the Services, and shall be primary with respect to City and non-contributing to any insurance or self-insurance maintained by City.
- 5.2 Contractor shall secure and maintain Workers' Compensation and Employer's Liability insurance for its employees throughout the performance of the Services 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 of coverage limits 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 "B" prior to commencement of the Services.
- 5.3 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 negligent or intentionally wrongful act or omission of Contractor, and its officers, employees and agents, in performing the Services.
- 5.4 Contractor is expressly prohibited from assigning any of the work associated with the Services without the prior written consent of City. In the event of agreement by the Parties to assign a portion of the Services, 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 for in this Agreement.

- 5.5 Contractor shall secure and maintain in force throughout its performance of the Services 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 modification of coverage limits or cancellation of the policy except upon thirty (30) days prior written notice to City. A certificate of insurance and endorsements shall be delivered to City prior to commencement of the Services.
- 5.6 Contractor shall secure and maintain in force throughout its performance of the Services business automobile 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 Contractor owned vehicles used for the Services, 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 modification of coverage limits or cancellation of the policy except upon thirty (30) days prior written notice to City. A certificate of insurance and endorsements shall be delivered to City prior to commencement of the Services.
- 5.7 The failure of Contractor to complete the work within the time allowed will result in damages being sustained by City. Such damages are, and will continue to be, impracticable and extremely difficult to determine. Contractor shall pay to 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 Services. Execution of this Agreement shall constitute agreement by City and Contractor that \$500 per day is the estimated damage to City caused by the failure of Contractor to complete the Services within the allowed time. Such sum represents liquidated damages and shall not be construed as a penalty, and may be deducted from payments due the Contractor if such delay occurs.

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 bases, photographic prints and negatives, designs and specifications, cost estimates, and other documents developed by Contractor for the Services shall become the property of City and shall be delivered to City upon completion of the Services, or earlier termination of this Agreement.
- 6.3 Contractor is, for all purposes under this Agreement, an independent contractor with respect to the performance of the Services and not an employee of City. All personnel employed by Contractor to perform the Services 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 City may terminate this Agreement for any reason, at any time at its sole discretion, upon two (2) business days prior written notice to Contractor.
- 6.6 Upon receipt of a termination notice, Contractor shall (1) promptly discontinue all work associated with the 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. Contractor shall be compensated on a pro-rata basis for any work completed up until notice of termination.
- 6.7 This Agreement, including the exhibits incorporated by reference, represents the entire agreement and understanding between the Parties as to the matters contained herein and any prior negotiations, proposals and agreements relating to the subject matter hereof are superseded by this Agreement. Any amendment to this Agreement shall be in writing and approved 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

LAYNE CHRISTENSEN COMPANY

By _____
Pete Aguilar, Mayor

Greg McInnis, Vice President

ATTEST

Sam Irwin, City Clerk

EXHIBIT "A"

Scope of Services

Scope of services includes:

- Mobilize and demobilize pump crew to well site
- Pull well pump equipment
- Video Log well
- Brush & Bail well
- Provide Lakos sand separator Model#PPS-600-HAS
- Fabricate Lakos adapter shroud
- Provide new 100hp 2-pole submersible motor
- Provide new Goulds 9RCLC-3 stage bowl 760gpm@415'tdh
- Provide 40' of new 8" NPT column pipe sch-40
- Provide 50' of 2/0 cable & make splice to existing cable
- Provide new 8" Surge Valve
- Provide 316SS Air Line
- Install well pump equipment
- Freight and any special delivery charges
- Bonds and all sales tax

EXHIBIT "B"
LABOR AND MATERIAL BOND

Whereas, the City Council of the City of Redlands, State of California, and Layne Christensen (hereinafter designated as "Principal") have entered into an agreement (the "Agreement") whereby Principal agrees to install and complete certain designated public improvements (the "Work"), which said agreement, dated June 18, 2013, and identified as the Motor and Pump Replacement Project at the California Street Well site is hereby referred to and made a part hereof; and

Whereas, under the terms of the Agreement, Principal is required before commencing the performance of the Work, to file a good and sufficient Labor and Material bond with the City of Redlands to secure the claims to which reference is made in Title 3 (commencing with Section 9550) of Part 6 of Division 4 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 and all contractors, subcontractors, laborers, material men and other persons employed in the performance of the Agreement and referred to in the aforesaid Code of Civil Procedure in the sum of Forty Eight Thousand Six Hundred Sixty-Eight Dollars and Seventy Cents (\$48,668.70) 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 attorneys' 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 insure to the benefit of any and all persons, companies and corporations entitled to file claims under Title 3 (commencing with Section 9550) of Part 6 of Division 4 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 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 _____, 2013.

(SEAL)

(SEAL)

(Contractor)

(Surety)

(Signature)

BY:

(Signature)

Address:

(Seal and Notarial Acknowledgment of

Telephone() _____

Surety)

EXHIBIT "C"

WORKERS' COMPENSATION INSURANCE CERTIFICATION

Project: supply and install new well motor in the City of Redlands

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 Agreement. (Labor Code §1861).

Layne Christensen Company

Date: _____

By: _____
Greg McInnis

Contractor's License No.