

**City of Vernon
Request for Proposals (RFP)**

**Search Firm Services for
City Attorney Search**

**City of Vernon
4305 Santa Fe Avenue, Vernon CA 90058
Phone: (323) 583-8811
November 2011**

City of Vernon
Request for Proposals
A Search Firm to Conduct a Recruitment for the
Position of Vernon City Attorney

I. INTRODUCTION AND PROJECT

The City of Vernon (“City”) invites proposals from a qualified search firm to conduct a comprehensive recruitment for the position of Vernon City Attorney. The City is seeking a search firm with a high degree of experience providing recruiting services for senior level attorney positions in local government in California.

II. BACKGROUND

The City of Vernon, California is a charter city located approximately five miles southeast of downtown Los Angeles. The City was founded in 1905 and is approximately 5.2 square miles in size. Over its long history the City was developed as an industrial community. The City has a small residential population; most residents live in City-owned housing units. The City’s business friendly environment, low cost utilities and proximity to rail and trucking transportation continue to make it an excellent location for industrial facilities.

The City is governed by a City Council of five members elected from the City at-large. Council members serve five year staggered terms. The City Council is responsible for enacting ordinances, adopting the annual City Budget and Capital Improvement Plan and the review and adoption of proposed policies, agreements, contracts and other City business items.

The City Attorney in Vernon is the legal officer of the City who serves at the pleasure of the City Council unless otherwise provided by written contract. The City Attorney has duties outlined in the Vernon City Charter and the City Code and performs or oversees a wide range of legal services. Currently, the City does not have a permanent City Attorney.

III. SCOPE OF SERVICES

The City is seeking a search firm with recruitment experience relating to senior level attorney positions in California local government. The search firm must be able to conduct an effective, prompt and broad recruitment. Preference shall be given to search firms with experience recruiting senior level attorneys for local government positions in California.

The awarded search firm shall provide services consisting of, but not limited to, the following tasks:

1. Work with City personnel to develop a complete and detailed job description.
2. Work with City personnel to establish a description of the characteristics and attributes sought in candidates for City Attorney.

3. Work with City personnel to establish selection criteria, the selection process and a timeline for selection of a City Attorney.
4. Work with City personnel to develop the salary range.
5. Develop an effective search strategy to identify qualified candidates.
6. Develop recruitment materials and solicitations that describe the City Attorney position, the City and the broader community.
7. Conduct a broad and thorough national search.
8. Conduct targeted recruitment of qualified individuals.
9. Acknowledge receipt of application materials from candidates and communicate with all candidates throughout the recruitment process.
10. Conduct initial screening of applications from all candidates.
11. Recommend candidates for interview.
12. Prepare appropriate interview questions and evaluation tools.
13. Coordinate and participate in multiple round interviews.
14. Assist with candidate evaluation.
15. Conduct effective background and reference checks on finalists.
16. Assist City with offer and acceptance.
17. Provide notification to candidates not selected as finalists.
18. Provide progress reports on at least a weekly basis.

IV. QUALIFICATIONS AND CRITERIA

The City will select a search firm on the basis of qualifications and experience. The following are minimum qualifications which will be used to evaluate responses to this Request for Proposal:

1. The search firm has five or more years of relevant experience performing services on similar projects.
2. The search firm is to provide three or more satisfactory references for similar work performed during the last five years.
3. The search firm can demonstrate an understanding of the project, possess the capabilities to complete the project and have a track record of performing on time and on budget.

IV. PROPOSAL REQUIREMENTS

The submission requirements are set forth below. A proposal shall constitute an irrevocable offer for 90 calendar days following the deadline for its submission.

Deliver the response to:

City of Vernon
City Administrator's Office
4305 Santa Fe Avenue
Vernon, CA 90058

The response is due on or before 5:00 p.m. on December 5, 2011. Late responses will not be accepted.

A. Cover Letter

- Describes the main features of the proposal
- Signed by an officer authorized to contractually bind the search firm
- Identification of the search firm, the address, telephone number and website of the firm and the name, title and telephone number of the contact person during the proposal evaluation period

B. Information Regarding Search Firm

- A brief history of the search firm
- Experience with similar searches within last five years
- Statement that any legally required business licenses, professional certifications or other credentials are in place
- Minimum of three references with contact information from organizations that have used the search firm's services for similar projects

C. Scope of Services

- Description of techniques, approaches and methods to be used in completing project
- Description of work activities to be performed listing specific deliverables, timelines, milestones and benchmarks
- Description of information and support required of City staff
- An acknowledgment of the acceptance of the contracting requirements set forth in the standard city contract (Appendix A) unless specific modifications are requested as set forth in Section X.

D. Fees and Expenses

- Detailed description of search firm's compensation formula, including travel costs and expenses. The maximum not-to-exceed total for all services should be \$25,000.
- Rates for any additional services

V. **ADDENDA, CHANGES AND AMENDMENTS TO THIS SOLICITATION**

At any time prior to the due date for responses, the City may make changes, amendments and addenda to this solicitation, including changing the date due to allow search firms time to address such changes. Addenda, changes and amendments, if made, will be posted on the City's website (www.cityofvernon.org), which is deemed adequate notice. A search firm may make a request to the City to be placed on a list of persons to receive notice of any such addenda, changes or amendments. The preferred manner of communications is via email.

VI. ERRORS IN RFP

If a search firm discovers any ambiguity, conflict, discrepancy, omission or other error in the RFP, the search should immediately provide the City with written notice of the problem, and request that the RFP be modified.

VII. RIGHT OF CITY TO WITHDRAW REQUEST FOR PROPOSAL

The City may, at its sole discretion and for any reason whatsoever, withdraw this solicitation at any time.

VIII. BASIS OF AWARD

The award will take into consideration a number of factors including, but not limited to, the following:

1. Professional services fees and expenses
2. A record of keeping fees and expenses within proposal budget (not to exceed \$25,000)
3. Demonstrated experience in facilitating a recruitment for senior attorney positions in local government in California
4. Substantiating adequate staff to complete the work within the time specified in the proposal
5. Professionalism of search firm
6. Positive references
7. Background, credentials and years of experience with local government attorney recruitment in California
8. Guarantees of performance and response time
9. Completeness of bid package
10. Project management approach and timeline
11. Placement guarantee

The City has the right to reject any and all proposals, to waive any technicalities, informalities and irregularities, to accept or reject all or part of the proposal and to be the sole judge of the suitability of the proposals offered.

IX. CONDITIONS FOR RESPONSES TO RFP

The following conditions apply to the RFP process:

- A. Nothing contained in this RFP shall create any contractual relationship between the search firm and the City.
- B. This RFP does not obligate the City to award a contract to any search firm. The City reserves the right to amend or cancel this RFP without prior notice, at any time at its sole discretion.
- C. The City shall not be liable for any expenses incurred by any search firm in connection with this RFP.

- D. No conversations or agreements with any officer, employee or agent of the City shall affect or modify any terms of this RFP.
- E. The City reserves the right in its sole discretion, to accept or reject any or all proposals without prior notice and to waive any irregularities or defects in a proposal. The City reserves the right to seek clarification on a proposal with any source. The City has the right to be the sole judge of the suitability of the proposals offered.
- F. The dates, times and sequence of events related to this RFP shall ultimately be determined by the City.
- G. Search firms shall not issue any news release or make public statements pertaining to this RFP or the City without prior written approval of the City.
- H. All proposals submitted and information included therein or attached thereto shall become public record upon delivery to the City.

X. CONTRACTING REQUIREMENTS

Upon selection of a search firm, the terms set forth in this RFP are to be embodied in a definitive agreement containing such additional covenants and other provisions as may be mutually acceptable.

The City's standard form contract shall be used and includes other provisions not described here. A standard professional service contract is attached for reference (see Appendix A). **Please review this very carefully and note in the search firm's proposal any exceptions or alteration to the agreement. Alterations or changes to the agreement which were not in the search firm's response to the RFP will not be made after the selection of the search firm.** This includes alteration, exceptions or changes to the insurance and indemnity provisions. Requiring these modifications in the response to the RFP enables the City to more easily compare the responses.

Appendix A

SERVICES AGREEMENT BETWEEN THE CITY OF VERNON AND [CONTRACTOR'S NAME] FOR [BRIEF DESCRIPTION OF SERVICES]

COVER PAGE

Contractor: [insert name of contractor]

Responsible Principal of Contractor: [insert name, title]

Notice Information - Contractor: [insert name of contractor]
[insert street address]
[insert city, state, zip code]
Attention: [insert name, title]
Phone: [insert phone number]
Facsimile: [insert fax number]

Notice Information - City: City of Vernon
4305 Santa Fe Avenue
Vernon, CA 90058
Attention: Mark Whitworth,
City Administrator
Telephone: (323) 583-8811 ext. 398
Facsimile: (323) 826-1408

Commencement Date: [insert commencement date]

Termination Date: [insert termination date], unless extended pursuant to Section 1

Consideration: Total not to exceed \$[insert amount] (includes all applicable sales tax); and more particularly described in Exhibit B

Records Retention Period [insert number of years contractor must retain records]

SERVICES AGREEMENT BETWEEN THE CITY OF VERNON AND [CONTRACTOR'S NAME] FOR [BRIEF DESCRIPTION OF SERVICES]

THIS AGREEMENT is made and entered into as of _____ (“Effective Date”), by and between the City of Vernon, a California charter City and California municipal corporation (“City”), and [Contractor's Name], a [State incorporated in] corporation (“Contractor”). City and Contractor are collectively referred to herein as the “Parties.”

RECITALS

A. City desires to have certain [brief description of services] services provided as more fully set forth in the Scope of Services, attached hereto and incorporated herein as Exhibit A.

B. Contractor represents it is qualified and capable of furnishing the labor, materials, and expertise necessary to perform such services in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, the Parties agree as follows:

Section 1. Term and Time of Performance.

(a) This Agreement shall commence upon the Commencement Date listed on the Cover Page, and shall remain and continue in effect through the Termination Date listed on the Cover Page, unless sooner terminated pursuant to the provisions of this Agreement. City may renew this Agreement on a year-to-year basis at its discretion.

(b) In the event that City renews this Agreement, Contractor may submit a proposal to increase its rates no later than thirty (30) days after receiving notice of City's intent to renew. Any increase in rates must be approved by City before such increase can take effect. If City fails to approve the proposed increase within thirty (30) days of receipt, Contractor may terminate the renewal by giving thirty (30) days written notice.

Section 2. Performance.

(a) Contractor shall perform the services and tasks described and set forth in the Scope of Services, Exhibit A (“Services”). Additional services must be mutually agreed upon in writing signed by both Parties prior to performance of those additional services.

(b) Contractor shall at all times faithfully, competently and to the best of its ability, experience, and talent, perform all Services under this Agreement in accordance with the standard of care and skill ordinarily exercised by members of the profession currently practicing in the same locality as the City under similar circumstances and in a manner reasonably satisfactory to City. Contractor shall at all times comply with the highest ethical standards when performing Services for the City.

(c) Contractor shall keep itself informed of all local, state, and federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance of its Services pursuant to this Agreement. Contractor shall at all times observe and comply with all such ordinances, laws and regulations. City, and its officers,

officials, employees, agents or volunteers shall not be liable at law or in equity occasioned by failure of Contractor to comply with this section.

(d) Contractor will not be compensated for any work performed not specified in Exhibit A unless City authorizes such work in advance and in writing.

Section 3. Compensation.

(a) City agrees to compensate Contractor, and Contractor agrees to accept in full satisfaction for the services and any supplies or goods required by this Agreement, a sum not to exceed the Consideration set forth on the Cover Page and more particularly described in Exhibit B. The Consideration shall constitute reimbursement of Contractor's fee for the Services as well as for all actual and necessary expenditures reasonably incurred in the performance of this Agreement (including without limitation, all labor, materials, equipment, supplies, delivery, tax, assembly, and installation, as applicable).

(b) There shall be no claims for additional compensation for reimbursable expenses and Contractor shall not be reimbursed for any additional expenses.

(c) Change in the scope of services, duties, obligations, durations or total compensation, shall be by written authorization only by the City. A form of Change Order is set forth in Exhibit C attached hereto and incorporated by reference.

Section 4. Method of Payment. City shall pay Contractor the Consideration in accordance with the Cost Schedule set forth in Exhibit B.

Section 5. Responsible Principals.

(a) Contractor's Responsible Principal set forth on the Cover Page shall be principally responsible for Contractor's obligations under this Agreement and shall serve as principal liaison between City and Contractor. Designation of another Responsible Principal by Contractor shall not be made without prior written consent of City.

(b) City's Responsible Principal shall be the City Administrator or his designee who shall administer the terms of the Agreement on behalf of City.

Section 6. Personnel.

(a) All persons performing Services shall have all the necessary technical expertise, permits, professional licenses, certificates, training, and other qualifications required by this Agreement or other applicable laws. Contractor shall provide City with said permits, licenses, and certificates at the request of City.

(b) Contractor represents that it has, or shall secure at its own expense, all personnel required to perform Contractor's Services under this Agreement. All personnel engaged in the work shall be qualified to perform such Services.

Section 7. Permits and Licenses. Contractor shall obtain and maintain during the Agreement term all necessary licenses, permits and certificates required by law for the provision of services under this Agreement, including a business license.

Section 8. Access. Contractor shall comply with all reasonable access and other restrictions that City may impose. No access to City property for performance of the Services shall be permitted prior to delivery to City of proof of insurance paid and maintained by Contractor.

Section 9. Contractor's Duties and Representations.

Contractor represents, covenants and agrees as follows:

(a) There are no obligations, commitments, or impediments of any kind that will limit or prevent performance of the Services.

(b) Contractor presently has no interest and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of the Services contemplated by this Agreement. No person having any such interest shall be employed by or be associated with Contractor.

(c) There is no litigation pending against Contractor and Contractor is not the subject of any criminal investigation or proceeding, and neither Contractor nor its personnel, to its actual knowledge, have been convicted of a felony.

Section 10. Independent Contractor.

(a) Contractor is and shall at all times remain, as to City, a wholly independent contractor. The personnel performing the Services under this Agreement on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Neither City nor any of its officers, officials, employees, agents, or volunteers shall have control over the conduct of Contractor or any of Contractor's officers, employees, or agents except as set forth in this Agreement. Contractor shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, officials, employees, agents, or volunteers of City. Contractor shall not incur or have the power to incur any debt, obligation or liability whatsoever against City, or bind City in any manner.

(b) No employee benefits shall be available to Contractor or its officers, employees, or agents in connection with the performance of this Agreement. Except for Consideration paid to Contractor as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Contractor for performing services hereunder for the City. City shall not be liable for compensation or indemnification to Contractor or its officers, employees, or agents for injury or sickness arising out of performing services hereunder.

(c) Contractor agrees to pay and be responsible for paying all Federal, State and local taxes for compensation received by Contractor from City while performing services for City.

Section 11. Termination.

(a) Termination Right. City may, at any time, for any reason or for no reason, with or without cause, terminate this Agreement, by serving upon the Contractor at least five (5) calendar days prior written notice. Upon receipt of such notice, Contractor shall immediately cease all work under this Agreement, unless the notice provides otherwise.

(b) In the event of termination or cancellation of this Agreement by City, due to no fault or failure of performance by Contractor, Contractor shall be paid based on the percentage of work satisfactorily performed at the time of termination. In no event shall Contractor be entitled to receive more than the amount that would be paid to Contractor for the full performance of the services required by this Agreement. Contractor shall have no other claim against City by reason of such termination, including any claim for compensation.

(c) **Actions Subsequent to Termination.** In the event of termination of this Agreement, Contractor shall deliver all Confidential Information, as defined in Section 13 below, to City within thirty (30) days after the termination of this Agreement. Contractor shall also take all such other action as City reasonably requires and shall cooperate with City to effectuate an orderly and systematic termination of Contractor's duties and activities hereunder.

(d) All of the terms and conditions in the Agreement related to payment, confidentiality, indemnification, dispute resolution and waiver shall survive termination of this Agreement.

Section 12. Limitation of City's Liability. City's liability on any kind of claim for any loss or damage arising out of, in connection with, or resulting from this Agreement, shall in no case exceed the amount that would be paid to Contractor for the full performance of the services required by this Agreement. In no event shall City be liable for anticipated profits or for incidental, consequential or punitive damages. City shall not be liable for penalties of any description.

Section 13. Confidential Status; Disclosure of Information.

(a) **Confidential Status; Disclosure of Information.** All data, customer information, business practices, business methods, privileged information, trade secrets, financial statements, floor plans, designs, blueprints, maps, surveys, drawings, models, reports, correspondence, logs, documents, materials or other information developed or created by Contractor, received by Contractor, revealed to Contractor, or provided to Contractor for the performance of this Agreement ("Confidential Information") are deemed confidential and shall not be disclosed by Contractor to any third party without City's prior written consent. City reserves all rights to Confidential Information. City shall grant consent if disclosure is legally required. All Confidential Information shall be returned to City upon completion or termination of this Agreement. Contractor's covenant under this section shall survive the termination of this Agreement. City may disclose to third parties any Confidential Information at its sole discretion.

(b) Contractor's obligation not to disclose any Confidential Information shall not extend to information that:

i. was in the possession of, or was rightfully known by, the Contractor without an obligation to maintain its confidentiality prior to receipt from City;

ii. is or becomes generally known to the public without violation of this Agreement;

iii. is obtained without an obligation of confidentiality by the Contractor in good faith from a third party having the right to disclose it without an obligation of confidentiality; or

iv. information which is required to be disclosed pursuant to any court order or directive having the force of law.

(c) The provisions of this section shall survive the termination of this Agreement.

Section 14. Technical Materials. City reserves all rights to any and all tools, dies, patterns, plates or other similar technical materials furnished or paid for by City, and Contractor shall use such materials in strict confidentiality and shall return the same to City at its request upon completion or termination of this Agreement. Contractor shall not copy or otherwise use any such materials for any purposes other than the completion of this Agreement. Contractor's covenant under this section shall survive the termination of this Agreement.

Section 15. Records and Inspections. Contractor shall maintain full and accurate records with respect to all matters covered under this Agreement for Records Retention Period. City shall have access, without charge, during normal business hours to such records, and the right to examine and audit the same and to make copies and transcripts therefrom, and to inspect all program data, documents, proceedings and activities.

Section 16. Default. Contractor's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Contractor is in default under the terms of this Agreement, City shall have no obligation or duty to continue compensating Contractor for any work performed after the date of default and can terminate this Agreement immediately by written notice to Contractor.

Section 17. Indemnification. Contractor agrees to defend, indemnify, protect and hold harmless City, its officers, officials, employees, agents, and volunteers from and against any and all claims, suits, demands, actions, losses, damages, judgments, settlements, penalties, fines, defensive costs or expenses, including without limitation, interest, attorneys' fees and expert witness fees, or liability of any kind or nature arising out of or attributable to the acts or omissions of Contractor, or Contractor's officers, employees, or agents which in any way arise out of, result from, or are in any way related to the performance or non-performance of this Agreement, excepting only liability arising out of the sole negligence or willful misconduct of City, its officers, officials, employees, agents, or volunteers.

THE PROVISIONS OF THIS SECTION SHALL NOT TERMINATE OR EXPIRE, SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT AND SHALL BE GIVEN THE BROADEST POSSIBLE INTERPRETATION.

The obligations in this section are in addition to Contractor's duty to provide insurance and shall not be limited by any limitation on the amount or type of insurance coverage carried by Contractor.

Section 18. Insurance.

(a) Contractor shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, a policy or policies of Comprehensive General Liability Insurance, with minimum limits of Two Million Dollars (\$2,000,000) for each occurrence, combined single limit, against any personal injury, death, loss or damage resulting from the wrongful or negligent acts by Contractor or Contractor's officers, employees, or agents.

(b) Contractor shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, a policy or policies of Comprehensive Vehicle Liability insurance covering personal injury and property damage, with minimum limits of One Million Dollars (\$1,000,000) per occurrence, combined single limit, covering any vehicle utilized by Contractor or Contractor's officers, employees, or agents in performing the services required by this Agreement.

(c) Contractor agrees to maintain in force at all times during the performance of work under this Agreement workers' compensation insurance as required by law.

(d) Contractor shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, a policy or policies of Excess Liability Insurance, with minimum limits of Two Million Dollars (\$2,000,000) for each occurrence, combined single limit, and provide policy coverage and terms at least as broad as those required in the primary insurance.

(e) Contractor shall at all times during the term of this Agreement carry, maintain, and keep in full force and effect, a policy or policies of Pollution Liability Insurance, with minimum limits of Two Million Dollars (\$2,000,000) for each occurrence, combined single limit, and provide policy coverage and terms at least as broad as those required in the primary insurance.

(f) Contractor shall require each of its sub-consultants or sub-contractors to maintain insurance coverage that meets all of the requirements of this Agreement.

(g) The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least a B+; VII in the latest edition of Best's Insurance Guide.

(h) Contractor agrees that if it does not keep the aforesaid insurance in full force and effect City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may take out the necessary insurance and pay, at Contractor's expense, the premium thereon.

(i) At all times during the term of this Agreement, Contractor shall maintain on file with the Risk Manager, a certificate or certificates of insurance, satisfactory to the City Attorney and Risk Manager, along with a copy of the policy declarations page for each policy showing that the aforesaid policies are in effect in the required amounts. Upon request by City, Contractor shall cause its insurers to issue certified copies of the insurance policies evidencing that the coverage and policy endorsements required under this Agreement are maintained in force. Contractor shall, prior to commencement of work under this Agreement, file with the Risk Manager, such certificate or certificates and a copy of the policy declarations page for each policy. The policies of insurance required by this Agreement shall contain an endorsement naming the City, its officers, officials, employees, agents, and volunteers as additional insured's. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days prior written notice to City, and specifically stating that the coverage contained in the policies affords insurance pursuant to the terms and conditions as set forth in this Agreement.

(j) The insurance provided by Contractor shall be primary to any coverage available to City, and any insurance or self-insurance maintained by City, its officers, officials,

employees, agents, or volunteers shall be excess of Contractor's insurance and shall not contribute with it. The policies of insurance required by this Agreement shall include provisions for waiver of subrogation. Contractor hereby waives all rights of subrogation against City, its officers, officials, employees, agents, and volunteers.

(k) Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, Contractor shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Contractor shall procure a bond guaranteeing payment of losses and expenses.

Section 19. Certification. In accordance with the provisions of Section 3700 of the Labor Code, Contractor shall secure the payment of compensation to Contractor's employees. By executing this Agreement, Contractor certifies the following: Contractor is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and Contractor will comply with such provisions before commencing the performance of the work of this Agreement.

Section 20. Standard Specifications. The work done pursuant to this Agreement shall be done in accordance with the provisions of the most current edition of "Standard Specifications for Public Works Construction" (commonly known as "the Green Book") including Supplements, prepared and promulgated by the Southern California Chapter of the American Public Works Association and the Associated General Contractors of California, which specifications are hereinafter referred to as the "Standard Specifications." The provisions of these Standard Specifications shall apply to the work performed under this Agreement, unless different standards are specified in Exhibit A or agreed to in writing by the City.

Section 21. Compliance with Laws. Contractor shall keep itself informed of and comply with all Applicable Laws, including without limitation, the Fair Labor Standards Act, the Occupational Safety and Health Act and all those Applicable Laws relating in any way to employment practices and protection of the environment. Contractor shall not discriminate against any employee or any applicant for employment for reasons of race, color, creed, religion, sex, sexual preference, age or national origin. For purposes of this section, "Applicable Laws" shall mean any and all laws, regulations, rules, orders, directives, judgments, decrees, permits, approvals or other applicable requirements of any governmental entity or agency having jurisdiction that are applicable to any aspect of this Agreement that are in force on the Effective Date and as they may be enacted, issued or amended during the term of this Agreement.

Section 22. Enforcement of Wage and Hour Laws. Eight hours labor constitutes a legal day's work. The Contractor, or subcontractor, if any, shall forfeit twenty-five dollars (\$25) for each worker employed in the execution of this Agreement by the respective Contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Sections 1810 through 1815 of the California Labor Code as a penalty paid to the City; provided, however, work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon compensation for all hours worked in excess of 8 hours per day at not less than 1½ times the basic rate of pay.

Living Wages. In addition, Contractor, or Subcontractor, if any, working on City service contracts of any amount, as to all employees spending time on City contracts

shall observe the City's Living Wage Ordinance and all requirements thereof at all times on City contracts. The Current Living Wage Standards are set forth in Exhibit D. Upon request, certified payroll shall be provided to the City.

Section 23. Materials and Workmanship. City shall have the right to inspect any material used. Material furnished shall be new, complete, ready-for-use and of the latest model, shall not have been used in demonstration or other services and shall have all the usual equipment as shown by its manufacturer's current specifications and catalogs, unless otherwise specified. Equipment, supplies or services that fail to comply with the Agreement requirements regarding design, material or workmanship may be rejected at the option of City. Any materials rejected shall be removed from City premises at the Contractor's sole expense.

Section 24. Licenses and Permits. Except as provided herein below, Contractor shall obtain and pay for all permits and licenses required by federal, state or local law, rule or regulation. Costs for obtaining City permits required under this Agreement will be waived. All requirements for obtaining permits (including City permits) remain in effect and are not waived; only the costs of City permits are waived.

Section 25. Assignment of Unfair Business Practices. Contractor and its subcontractor offers and agrees to assign to City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public works contract or the subcontract. This assignment shall be made and become effective at the time City tenders final payment to Contractor, without further acknowledgment by the parties.

Section 26. Assignment and Subcontracting. Contractor shall not assign or attempt to assign any portion of this Agreement, or subcontract any required performance hereunder, without the prior written approval of City. Any assignment or subcontract made in violation of this section is invalid and void. In the event City grants written approval to Contractor to subcontract work under this Agreement, Contractor is prohibited from using a subcontractor who is ineligible to perform work on a public works project pursuant to Section 1777.1 or 1777.7 of the Labor Code.

Section 27. Arbitration and Venue. Any dispute, claim or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, shall be determined by arbitration in Los Angeles, California. The arbitration shall be administered by JAMS pursuant to its Streamlined Arbitration Rules and Procedures. The arbitrator shall be a retired judge. All decisions of the arbitrator shall be in writing, and the arbitrator shall provide written reasons for their decision. The arbitration decision shall be final and binding on the Parties. Judgment on the award may be entered in any court having jurisdiction pursuant to this Agreement. This clause shall not preclude Parties from seeking provisional remedies in aid of arbitration from a court having jurisdiction pursuant to this Agreement. The exclusive jurisdiction and venue under this Agreement shall be the Superior Court of California, Los Angeles County.

Section 28. Attorneys Fees. In the event a dispute, claim or litigation arises regarding this Agreement, the prevailing party shall be entitled to reimbursement for reasonable attorneys

fees and actual costs, which may be set by the arbitrators or the court in the same action or in a separate action brought for that purpose, in addition to any other relief which is obtained.

Section 29. Governing Law. This Agreement shall be interpreted and enforced according to, and the Parties rights and obligations governed by, the domestic law of the State of California, without regard to its laws regarding choice of applicable law.

Section 30. Entire Agreement and Modifications. This Agreement, including attachments incorporated herein by reference, represents the entire integrated agreement and understanding between the Parties, and supersedes all prior or contemporaneous negotiations, representations, agreements, understandings and statements, written or oral. This Agreement may only be modified in writing and signed by both Parties.

Section 31. Waiver. The waiver by either party of a breach or default by the other party shall not be deemed a waiver of any different or later breach whether of the same or other covenant or condition; nor shall any delay or omission by either party to exercise any right it may have hereunder operate as a waiver of any breach or default of such a right. The failure of either party to this Agreement to exercise any of its rights under this Agreement does not constitute a breach thereof and shall not be deemed to be a waiver of such rights or a waiver of any subsequent breach. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise.

Section 32. Force Majeure. Neither party shall be considered in default of any of its obligations under this Agreement when a failure of performance shall be due to an uncontrollable force. The term "uncontrollable force" shall mean flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance or disobedience, federal, state, or municipal action, statute, ordinance, or regulation, embargoes of the United States Government or any other government, which by exercise of due diligence such party could not reasonably have been expected to avoid and by exercise of due diligence has been unable to overcome. Either party rendered unable to fulfill any of its obligations under this Agreement by reason of an uncontrollable force shall give written notice within five (5) business days of such fact to the other party and shall exercise due diligence to remove such inability with all reasonable dispatch.

Section 33. City Not Obligated to Third Parties. City shall not be obligated or liable under this Agreement to any party other than Contractor. City shall timely notify Contractor of the receipt of any third-party claim relating to this Agreement. City shall be entitled to recover its reasonable costs incurred in providing the notification required by section.

Section 34. Notices. All notices, approvals, consents and other communications between the Parties shall be in writing, and shall be sent by certified mail (return receipt requested) or other delivery service which provides evidence of delivery, using the address set forth on the Cover Page under "Notice Information - City" or "Notice Information – Vendor," as appropriate, or at such other address as may be furnished by either party to the other in writing. Mailed notices will be deemed communicated as of the day of receipt.

Section 35. Cover Page and Exhibits. The Cover Page and all documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail.

Section 36. Headings. Headings used in this Agreement are for convenience and ease of reference only and shall not affect the interpretation of the Agreement.

Section 37. Survival of Terms. All of the terms and conditions in this Agreement related to payment, confidentiality, indemnification, dispute resolution and waiver shall survive termination of this Agreement.

Section 38. Severability. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid under applicable law. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force and effect, and shall in no way be affected, impaired or invalidated.

Section 39. Authority to Execute This Agreement. The person or persons executing this Agreement on behalf of Contractor warrants and represents that he or she has the authority to execute this Agreement on behalf of Contractor and has the authority to bind Contractor to the performance of its obligations under this Agreement.

[Signatures Begin on Next Page].

IN WITNESS WHEREOF, the Parties have signed this Agreement as of the date stated in the introductory clause.

City of Vernon, a California charter City and California municipal corporation

[CONTRACTOR'S NAME, a [State incorporated in] corporation

By: _____
Hilario Gonzales
Mayor

By: _____
Name: _____
Title: _____

ATTEST:

Willard G. Yamaguchi, City Clerk

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

Willard G. Yamaguchi,
Chief Deputy City Attorney

EXHIBIT A
SCOPE OF SERVICES

EXHIBIT B

FEES

[Example (Delete and replace actual terms)]

[Contractor shall be paid \$[insert flat amount] to perform all Services described in Exhibit A.]

[Contractor shall invoice City [FREQUENCY] for Services provided under this Agreement.]

[Example (Delete and replace with actual terms)]

[Invoices shall include the period for which Services were provided, the dates of such Services, and a description of the Services provided for that billing period. Each invoice shall include copies of timesheets and other supporting documents as City may require.]

[Payments of each invoice shall be made by City within thirty (30) days following receipt of each invoice as to all non-disputed fees. If City disputes any of Contractor's fees, it shall give written notice to Contractor within thirty (30) days of receipt of the disputed invoices. Any amounts in dispute shall be withheld until resolution.]

EXHIBIT C
CHANGE ORDER

EXHIBIT D

LIVING WAGE PROVISIONS

Minimum Living Wages:

A requirement that Employers pay qualifying employees a wage of no less than \$10.30 per hour with health benefits, or \$11.55 per hour without health benefits.

Paid and Unpaid Days Off:

Employers provide qualifying employees at least twelve compensated days off per year for sick leave, vacation, or personal necessity at the employee's request, and an additional ten days a year of uncompensated time for sick leave.

No Retaliation:

A prohibition on employer retaliation against employees complaining to the City with regard to the employer's compliance with the living wage ordinance. Employees may bring an action in Superior Court against an employer for back pay, treble damages for willful violations, and attorney's fees, or to compel City officials to terminate the service contract of violating employers.