



COMMUNITY SERVICES & WATER DEPARTMENT
Samuel Kevin Wilson, Director of Community Services & Water
4305 Santa Fe Avenue, Vernon, California 90058
Telephone (323) 583-8811 Fax (323) 826-1435

January 11, 2012

NOTICE TO BIDDERS – ADDENDUM NO. 1

This notice shall be considered as Addendum No. 1 to the Request for Proposal “For Engineering Design And Construction Support Services For Well 21.” The Request for Proposal now includes a Source Water Assessment study performed in 2011.

The Request for Proposal “For Engineering Design And Construction Support Services For Well 21” is to be amended as follows:

1. Appendix “B” Source Water Assessment; prepared by Richard C. Slade & Associates LLC. 2011 Report.

Bidders shall acknowledge receipt of this addendum.

Please refer to the City of Vernon website at www.cityofvernon.org under the Community Services Water Division page to view the above-mentioned Appendix “B.” If you have any questions, please call Scott B. Rigg of my staff at (323) 583-8811 extension 279.

Sincerely,

Samuel Kevin Wilson, P.E.
Director of Community Services & Water

SKW/sr

c: Willard Yamaguchi

Exclusively Industrial

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

**For Engineering Design And Construction
Support Services For Well 21**



**City of Vernon
Community Services Department
4305 Santa Fe Avenue, Vernon Ca 90058
Phone: (323) 583-8811
January 2012**

I. **INTRODUCTION AND PROJECT**

The City of Vernon (City) is currently seeking Request for Proposals (RFP) from qualified engineering consulting firms for design and technical support services for the construction of a fully operational pump station at the Vernon Water Department Production Well 21.

The City took possession of a former industrial well, located at 2170 55th Street, and is seeking to convert it to a municipal water supply well. The City retained the services of Richard C. Slade & Associates, LLC (Slade) who performed a hydrogeological evaluation of the subject well. The evaluation consisted of a multi phase test pumping methodology to ascertain the downwell condition and to access the current production capacity and water quality. The Stage 1 Phase was performed utilizing a normal pumping sequence without the use of a packer. The initial test results of Stage 1 Phase indicated that the well had elevated levels of Volatile Organic Compounds (VOCs) that exceeded the Maximum Containment Levels (MCLs) for those constituents. In the Stage 2 Phase, a packer was inflated at 500 feet in order to isolate the upper set of perforations from the well. The test results of Stage 2 Phase determined that the VOC levels are well below established MCLs. The results of the hydrogeological evaluation were submitted to the California Department of Public Health (CDPH) for review. The CDPH findings concluded that the installation of an inflatable packer, combined with water quality monitoring, are reasonable measures to ensure that the subject well is suitable for potable use. The Slade hydrogeological evaluation is available upon request.

The City will select a consulting firm which demonstrates proven capabilities for water wellhead and pump design, as well as knowledge of telemetry systems. Proposals should reflect knowledge of these areas of expertise, recent related experience, proposed scope of work, tentative project schedule and proposed not to exceed fees for each phase of the proposed work. The firm selected will be expected to work with designated City representatives to complete the project.

II. **BACKGROUND**

The City of Vernon was founded in 1905, is approximately 5.1 square miles in size and is located approximately 5 miles southeast of downtown Los Angeles California. Over its long history Vernon has been developed as industrial community. At the turn of the century the lands that make up Vernon were comprised largely of farmlands. The presence of three major rail lines in the area led influential business men and property owners to encourage the railroad companies to run spur lines onto the farmlands. These rail extensions enabled the creation of an “exclusively industrial” city. By the 1920’s Vernon was attracting large stockyards and meatpacking facilities. In the 1930’s Vernon became the location of choice for many heavy industrial plants. As economic conditions changed over the decades, these large scale industrial operations have relocated out of Southern California and Vernon attracted smaller lighter industrial facilities. The City’s business friendly environment, low cost utilities and key location for trucking and rail transport continue to position Vernon as an ideal location for industrial uses.

City Government: The City Council consists of five members, elected from the City at-large, who serve five-year staggered terms. The City Council annually appoints a Mayor and a Mayor Pro Tem from its own membership to serve one-year terms.

III. **SCOPE OF SERVICES**

The prospective consultant shall provide a proposal for the full scope of services as described in this RFP; including the following elements:

DESIGN REPORT. The preparation and completion of a design report, which shall include but not limited to the elements listed below:

- The design report shall evaluate and recommend the type and size of the proposed water well's pump pedestal, prime mover, discharge head and pump station building facility; and
- The chosen consultant must prepare cost estimates for both the installation and operation of the proposed water well.

DESIGN, SPECIFICATION PREPARATION, AND SUPPORT SERVICES. The preparation and completion of the water wellhead and pump design and specifications shall include but not be limited to the elements listed below:

- Attend meetings with City to determine the project parameters and review work in progress;
- Prepare fully engineered construction plans, specifications, bid documents and detailed cost estimates for work. The design shall include all facilities on the proposed water well site including electrical, emergency power source connections, disinfection system, SCADA system flow meters, piping to connect to the existing distribution system, and the design of grading, paving, and fencing of site. The design shall include provisions for a detention basin to accommodate the well flushing cycle. The detention basin shall be designed to connect to the City storm drain system. The plans shall incorporate the City of Vernon construction standards, and meet all federal, state and local requirements as necessary. Specifically, the design specifications must meet all California Department of Public Health (CDPH) Services Office of Drinking Water regulations, Green Book, and American Water Works Association (AWWA) design specifications;
- Preparation of a Water Monitoring Plan as required by the CDPH;
- Preparation of National Pollutant Discharge Elimination System discharge plan and Best Management Practices for the subject project, including well discharges;
- Coordinate with agencies owning underground and overhead structures in the vicinity of the proposed water well to eliminate any conflicts;

- Assist with securing necessary approval and plan checks from regulatory agencies prior to bids, revision of project documents as indicated by such agencies for the construction of the wellhead, building, and associated facilities;
- Provide a description of any potential work, or optional items, not included in the consultant's scope of services or which has not been identified in this RFP, which the consultant feels is essential to the successful completion of the project. This would include additional services by the consultant or any other necessary tasks to be provided by the City. This potential work must be clearly identified, along with a suggested basis for payment, should those services be necessary or elected by the City;
- Make presentations to the Vernon City Council members and/or the public as required;
- Provide a written response to bidders' questions during the bid period and prepare modifications to the project documents and addenda, as necessary;
- Conduct a mandatory pre-bid conference;
- Assist with review and evaluation of bids; provide recommendations in regard to construction contract award, and assistance with contract negotiations, as necessary;
- Coordination of the project construction with the primary contractor; including responding to request for clarification's, information requests, reviewing and providing recommendations on proposed change orders;
- Oversee construction, start-up and tests, routine inspection as necessary, reports on construction progress and quality, and recommendations for correcting deficiencies and clarification of drawings as required. The City will provide contract administration on a daily basis;
- Assist with the review and recommendations for all progress payment requests, including requests for extra work and/or change orders;
- Review and approval of all shop drawings and material submittals;
- Oversee operational tests to describe all performance characteristics; and
- Provide a final report which documents the completion of all work in accordance with plans and specifications, including as-built drawings and specifications with annotations indicating any changes made to the plans and specifications during construction. The consultant shall provide itemized costs for all phases of the project, including costs for optional work.

IV. PROPOSED FORMAT

The selected Consultant Team shall work with the City's personnel to ensure the highest level of accuracy.

- A. **Assumptions:** Proposals should include a list of the Consultant Team's assumptions made in preparation of the proposal on a separate page entitled, "Assumptions Upon Which This Proposal is Based." This section should also specifically set forth those documents, maps, and studies which the Consultant Team expects to be provided by the City.
- B. **Schedule:** Proposals should provide a detailed schedule for the completion of services. Time frames should be stated in terms of the number of calendar days or weeks required to complete the specified tasks using the City's notice to proceed as the start date. The schedule should identify the periods as the total elapsed time from the start date. The schedule should track the independent timing for each of the different documents to be developed, reviewed, and adopted.
- C. **Costs:** Proposals should include costs for the completion of each major task in the work program. Each task should clearly identify the Consultant Team member who will be primarily responsible for completing the task. This section should include billing and expense reimbursement rates. Costs should be segregated into a time and materials rate schedule and a not-to-exceed maximum amount for all work. Indicate hourly rates of individuals involved, number of hours for each component, task or product, and the fee structure for additional work outside of the contract and optional items. A time and materials rate schedule should also be provided for use in negotiating any Changes in Work required during the course of the contract. Cost information shall be submitted in a separate sealed envelope.
- D. **Staffing:** The project manager and key personnel, including those of any subcontractor, shall be designated. The person (s) who will attend and facilitate public meetings and presentations should be identified and should be the same persons making any presentations to City Staff during the selection process. The geographic location of the firm and key personnel shall also be identified. Any proposed sub-consultants shall be listed. Their responsibilities should be included in the proposal, if necessary. There shall be no Changes in the project manager, sub-consultants, or key staff without approval of the City.

V. **QUALIFICATIONS & CRITERIA**

A. **Qualifications:** The City of Vernon will select a principal consultant or team for this work on the basis of qualifications and experience. The following are the minimum qualifications to be used to evaluate responses to this Request for Proposal:

1. Firm has five or more years of relevant experience performing services on similar public projects.
2. Firm is to provide, with proposal, three or more satisfactory municipal references for work performed in the past five years. Where possible include references from cities of a similar size and character to Vernon.
3. Firm can demonstrate understanding of the project, and knowledge of the disciplines necessary to complete the project.

B. **Selection Criteria:** The following items will be used to evaluate each Consultant Team:

1. Resumes of supervisory staff that will lead the management functions of the project. Resumes shall include educational background and qualifications.
2. Well design experience; and demonstrated record of success on work previously performed for other government agencies.
3. Substantiating adequate staff to complete the project within the time specified in the proposal.
4. The ability to make effective public presentations of the report and/or design as may be required.
5. The ability to work effectively with City staff, other public agencies, and related parties as may be required during the course of the design, study or other services.
6. Pertinent new ideas or approaches which may be presented during the course of the selection process.
7. Where appropriate, whether the party has adequate knowledge of local conditions.
8. Whether the party has available experienced, capable and acceptable professional personnel or sub-consultants as may be pertinent to the subject project.
9. A record of keeping costs within project budgets and design estimates.
10. Contract fee as negotiated and ultimately agreed upon. Price is not the sole basis for selection, but may be considered in the criteria for evaluating proposals.

VI. FORMAT AND DELIVERY RESPONSE

Respondents are asked to submit seven (4) copies of their proposals in sufficient detail to allow for a thorough evaluation and comparative analysis. The proposal should include, at a minimum, the following information in sectionalized format addressing all phases of the work in the RFP.

A. **Format:** Limit your proposal to 30 typed 8.5" x 11" pages or less on white bond paper of at least 20-pound weight single sided (excluding cover letter and attachments). You may attach company brochure materials if you wish, but these must be as separate attachments and independent from the required elements noted above.

1. Use a conventional typeface with a minimum font size of 12 points. Use a 1" margin on all borders.
2. Organize your submittal in the order described above.
3. Provide one (1) unbound original of your firm's response and one electronic version
4. Prominently label the package: "RFP for Engineering Design and Construction Support Services for Well 21" and include the name of the prime respondent.

Deliver the response to:
City of Vernon
Community Services Department
Attention: Samuel Kevin Wilson
4305 Santa Fe Avenue
Vernon, CA 90058

5. A job walk will be held at 10:00 a.m., on Tuesday, January 24, 2012. The job walk will be held at 2171 55th Street, in Vernon, CA. The response is due on or before 2:00 p.m., on Tuesday, February 7, 2012. Late responses will not be accepted.
6. If you have any questions please contact Scott B. Rigg at (323) 583-8811 ext. 279.

B. **Cover Letter:** An original cover letter signed by an officer authorized to contractually bind your firm. The *cover* letter should also include: the identification of the firm, including the name, address and telephone number of the firm; proposed working relationship among the firm and any subcontractor(s), if applicable; name, title, address and telephone number of a contact person during the proposal evaluation period; and a statement to the effect that the proposal shall remain valid for a period of not less than ninety (90) days from the date of submittal.

C. **Introduction:** Present an introduction of the proposal and your

understanding of the project and significant steps, methods and procedures to be employed by your firm to ensure quality end products that can be delivered within the required time frames and your identified budget.

- D. **General Scope of Work:** Briefly summarize the scope of work as your firm perceives or envisions it.
- E. **Work Plan:** Present concepts for conducting the work plan and interrelationship of all products. Define the scope of each task including the depth and scope of analysis or research proposed.
- F. **Specific Work Products:** Identify the specific end products which will be submitted. Include concepts as to the form and content of each work product.
- G. **Proposed Schedule:** Present a comprehensive schedule reflecting time frames and milestones for completing each phase and task. Include key decision points, interviews, workshops and Public Hearings
- H. **Estimated Cost and Hourly Rate Schedule:** Although an important aspect of consideration, the financial cost estimate will not be the sole justification for consideration. The City does expect a fair and reasonable project cost, backed by itemization of how the costs per phase and task were developed.

Negotiations may or may not be conducted with the firm; therefore, the proposal submitted should contain the firm's most favorable terms and conditions, since selection and award may be made without discussion with any firm. All prices should reflect "not to exceed" amounts per item.

- I. **Ability of the Consultant Team to Perform:** Provide a detailed description of your firm and its qualifications including names, titles, detailed professional resumes and past experience in similar work efforts/products of key personnel who will be working on the project. Provide a list of specific related work projects which have been completed by your firm that are directly related to the project described in this RFP. Note the specific individuals who completed such project(s). Identify role and responsibility of each member of the project team. Include the amount of time key personnel will be involved in the respective portions of the project. Respondents are encouraged to supply relevant examples of their professional product. Provide a list of references.

The Consultant shall not subcontract any work under the RFP nor assign any work without the prior written consent of the City.

VII. 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 respondents 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 proposer may make a request to the City's project coordinator 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 e-mail due to its timeliness.

VIII. FORM OF CONTRACT

The City's standard form of contract shall be used, and includes other provisions not described here. A standard professional service contract is attached for reference (Appendix C). *Please review this very carefully and note in body of response any exceptions or alterations to the agreement. Alterations or Changes to the agreement which were not in the Consultant Team's response will not be made after the selection of the Consultant Team.* This includes alterations, exceptions, or changes to the insurance and indemnity provisions. By requiring these requests up front, the City can compare all respondents on an equal footing.

IX. CONDITIONS FOR RESPONSES TO RFP

The following conditions apply to this RFP process:

- A. Nothing contained in this RFP shall create any contractual relationship between the respondent and the City.
- B. This RFP does not obligate the City to establish a list of service providers qualified as prime contractors, or award a contract to any respondent. 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 organization in connection with this RFP.
- D. No conversations or agreements with any officer, agent, or employee of the City shall affect or modify any terms of this RFP. Oral communications or any written/e-mail materials provided by any person other than designated contact staff of City shall not be considered binding.
- 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 minor irregularities or defects in a Proposal. The City reserves the right to seek clarification on a Proposal with any source.

- F. The dates, times, and sequence of events related to this RFP shall ultimately be determined by the City. The schedule shown above is subject to change, at the sole discretion of the City, although the City will attempt to follow it and, if it must be altered, will attempt to provide reasonable notice of the changes.
- G. Respondents shall not issue any news release pertaining to this RFP, or the City without prior written approval of the City.
- H. All submitted proposals and information included therein or attached thereto shall become public record upon delivery to the Community Services Department.

X. RIGHT BY THE CITY TO WITHDRAW THIS REQUEST

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

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 additional insured endorsement naming the City, its officers, officials, employees, agents, and volunteers as 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.]

Other sample language

Contractor shall perform the services described in the proposal dated _____, a copy of which is attached hereto and incorporated by referenced as attached.

Contractor shall invoice City within thirty (30) days after performing the work for Services provided under this Agreement.

Invoices shall include the period for which the 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, if any, 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 invoice. 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.