

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 AGREEMENT

2 **33464**

3 THIS AGREEMENT is made and entered, in duplicate, as of February 5,
4 2014, for reference purposes only, pursuant to a minute order adopted by the City
5 Council of the City of Long Beach at its meeting on February 4, 2014, by and between
6 VANIR CONSTRUCTION MANAGEMENT, INC., a California corporation ("Consultant"),
7 with a place of business at 4540 Duckhorn Drive, Suite 300, Sacramento, California
8 95834, and the CITY OF LONG BEACH, a municipal corporation ("City").

9 WHEREAS, City requires specialized services requiring unique skills to be
10 performed in connection with as-needed project management services ("Project"); and

11 WHEREAS, City has selected Consultant in accordance with City's
12 administrative procedures and City has determined that Consultant and its employees
13 are qualified, licensed, if so required, and experienced in performing these specialized
14 services; and

15 WHEREAS, City desires to have Consultant perform these specialized
16 services, and Consultant is willing and able to do so on the terms and conditions in this
17 Agreement;

18 NOW, THEREFORE, in consideration of the mutual terms, covenants, and
19 conditions in this Agreement, the parties agree as follows:

20 1. SCOPE OF WORK OR SERVICES.

21 A. Consultant shall furnish specialized services more particularly
22 described in Exhibit "A", attached to this Agreement and incorporated by this
23 reference, in accordance with the standards of the profession, and City shall pay
24 for these services in the manner described below, not to exceed Five Hundred
25 Thousand Dollars (\$500,000), at the rates or charges shown in Exhibit "B".
26 Consultant shall not mark-up or otherwise up-charge to City any direct charges,
27 including but not limited to charges for subconsultant services. Any changes to
28 the rates, charges or staff classifications shall be made only with the prior approval

1 of City.

2 B. Consultant may select the time and place of performance for
3 these services; provided, however, that access to City documents, records and the
4 like, if needed by Consultant, shall be available only during City's normal business
5 hours and provided that milestones for performance, if any, are met.

6 C. Consultant has requested to receive regular payments. City
7 shall pay Consultant in due course of payments following receipt from Consultant
8 and approval by City of invoices showing the services or task performed, the time
9 expended (if billing is hourly), and the name of the Project. Consultant shall certify
10 on the invoices that Consultant has performed the services in full conformance
11 with this Agreement and is entitled to receive payment. Each invoice shall be
12 accompanied by a progress report indicating the progress to date of services
13 performed and covered by the invoice, including a brief statement of any Project
14 problems and potential causes of delay in performance, and listing those services
15 that are projected for performance by Consultant during the next invoice cycle.
16 Where billing is done and payment is made on an hourly basis, the parties
17 acknowledge that this arrangement is either customary practice for Consultant's
18 profession, industry or business, or is necessary to satisfy audit and legal
19 requirements which may arise due to the fact that City is a municipality.

20 D. Consultant represents that Consultant has obtained all
21 necessary information on conditions and circumstances that may affect its
22 performance and has conducted site visits, if necessary.

23 E. CAUTION: Consultant shall not begin work until this
24 Agreement has been signed by both parties and until Consultant's evidence of
25 insurance has been delivered to and approved by City.

26 2. TERM. The term of this Agreement shall commence at midnight on
27 February 5, 2014, and shall terminate at 11:59 p.m. on February 4, 2016, unless sooner
28 terminated as provided in this Agreement, or unless the services or the Project is

1 completed sooner. The parties have the option to extend this Agreement for two (2)
2 consecutive one (1) year terms.

3 3. COORDINATION AND ORGANIZATION.

4 A. Consultant shall coordinate its performance with City's
5 representative, if any, named in Exhibit "C", attached to this Agreement and
6 incorporated by this reference. Consultant shall advise and inform City's
7 representative of the work in progress on the Project in sufficient detail so as to
8 assist City's representative in making presentations and in holding meetings on
9 the Project. City shall furnish to Consultant information or materials, if any,
10 described in Exhibit "D", attached to this Agreement and incorporated by this
11 reference, and shall perform any other tasks described in the Exhibit.

12 B. The parties acknowledge that a substantial inducement to City
13 for entering this Agreement was and is the reputation and skill of Consultant's key
14 employee, John Kuprenas. City shall have the right to approve any person
15 proposed by Consultant to replace that key employee.

16 4. INDEPENDENT CONTRACTOR. In performing its services,

17 Consultant is and shall act as an independent contractor and not an employee,
18 representative or agent of City. Consultant shall have control of Consultant's work and
19 the manner in which it is performed. Consultant shall be free to contract for similar
20 services to be performed for others during this Agreement; provided, however, that
21 Consultant acts in accordance with Section 9 and Section 11 of this Agreement.
22 Consultant acknowledges and agrees that (a) City will not withhold taxes of any kind from
23 Consultant's compensation; (b) City will not secure workers' compensation or pay
24 unemployment insurance to, for or on Consultant's behalf; and (c) City will not provide
25 and Consultant is not entitled to any of the usual and customary rights, benefits or
26 privileges of City employees. Consultant expressly warrants that neither Consultant nor
27 any of Consultant's employees or agents shall represent themselves to be employees or
28 agents of City.

1 5. INSURANCE.

2 A. As a condition precedent to the effectiveness of this
3 Agreement, Consultant shall procure and maintain, at Consultant's expense for the
4 duration of this Agreement, from insurance companies that are admitted to write
5 insurance in California and have ratings of or equivalent to A:V by A.M. Best
6 Company or from authorized non-admitted insurance companies subject to
7 Section 1763 of the California Insurance Code and that have ratings of or
8 equivalent to A:VIII by A.M. Best Company, the following insurance:

9 (a) Commercial general liability insurance (equivalent in scope to
10 ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less than
11 \$1,000,000 per each occurrence and \$2,000,000 general aggregate. This
12 coverage shall include but not be limited to broad form contractual liability,
13 cross liability, independent contractors liability, and products and
14 completed operations liability. City, its boards and commissions, and their
15 officials, employees and agents shall be named as additional insureds by
16 endorsement (on City's endorsement form or on an endorsement
17 equivalent in scope to ISO form CG 20 10 11 85 or CG 20 26 11 85 or
18 both CG 20 10 07 04 and CG 20 37 07 04 or both CG 20 33 07 04 and
19 CG 20 37 07 04), and this insurance shall contain no special limitations on
20 the scope of protection given to City, its boards and commissions, and
21 their officials, employees and agents. This policy shall be endorsed to
22 state that the insurer waives its right of subrogation against City, its boards
23 and commissions, and their officials, employees and agents.

24 (b) Workers' Compensation insurance as required by the California
25 Labor Code and employer's liability insurance in an amount not less than
26 \$1,000,000. This policy shall be endorsed to state that the insurer waives
27 its right of subrogation against City, its boards and commissions, and their
28 officials, employees and agents.

1 (c) Professional liability or errors and omissions insurance in an
2 amount not less than \$1,000,000 per claim.

3 (d) Commercial automobile liability insurance (equivalent in scope
4 to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in an
5 amount not less than \$500,000 combined single limit per accident.

6 B. Any self-insurance program, self-insured retention, or
7 deductible must be separately approved in writing by City's Risk Manager or
8 designee and shall protect City, its officials, employees and agents in the same
9 manner and to the same extent as they would have been protected had the policy
10 or policies not contained retention or deductible provisions.

11 C. Each insurance policy shall be endorsed to state that
12 coverage shall not be reduced, non-renewed or canceled except after thirty (30)
13 days prior written notice to City, shall be primary and not contributing to any other
14 insurance or self-insurance maintained by City, and shall be endorsed to state that
15 coverage maintained by City shall be excess to and shall not contribute to
16 insurance or self-insurance maintained by Consultant. Consultant shall notify City
17 in writing within five (5) days after any insurance has been voided by the insurer or
18 cancelled by the insured.

19 D. If this coverage is written on a "claims made" basis, it must
20 provide for an extended reporting period of not less than one hundred eighty (180)
21 days, commencing on the date this Agreement expires or is terminated, unless
22 Consultant guarantees that Consultant will provide to City evidence of
23 uninterrupted, continuing coverage for a period of not less than three (3) years,
24 commencing on the date this Agreement expires or is terminated.

25 E. Consultant shall require that all subconsultants or contractors
26 that Consultant uses in the performance of these services maintain insurance in
27 compliance with this Section unless otherwise agreed in writing by City's Risk
28 Manager or designee.

1 F. Prior to the start of performance, Consultant shall deliver to
2 City certificates of insurance and the endorsements for approval as to sufficiency
3 and form. In addition, Consultant shall, within thirty (30) days prior to expiration of
4 the insurance, furnish to City certificates of insurance and endorsements
5 evidencing renewal of the insurance. City reserves the right to require complete
6 certified copies of all policies of Consultant and Consultant's subconsultants and
7 contractors, at any time. Consultant shall make available to City's Risk Manager
8 or designee all books, records and other information relating to this insurance,
9 during normal business hours.

10 G. Any modification or waiver of these insurance requirements
11 shall only be made with the approval of City's Risk Manager or designee. Not
12 more frequently than once a year, City's Risk Manager or designee may require
13 that Consultant, Consultant's subconsultants and contractors change the amount,
14 scope or types of coverages required in this Section if, in his or her sole opinion,
15 the amount, scope or types of coverages are not adequate.

16 H. The procuring or existence of insurance shall not be
17 construed or deemed as a limitation on liability relating to Consultant's
18 performance or as full performance of or compliance with the indemnification
19 provisions of this Agreement.

20 6. ASSIGNMENT AND SUBCONTRACTING. This Agreement
21 contemplates the personal services of Consultant and Consultant's employees, and the
22 parties acknowledge that a substantial inducement to City for entering this Agreement
23 was and is the professional reputation and competence of Consultant and Consultant's
24 employees. Consultant shall not assign its rights or delegate its duties under this
25 Agreement, or any interest in this Agreement, or any portion of it, without the prior
26 approval of City, except that Consultant may with the prior approval of the City Manager
27 of City, assign any moneys due or to become due Consultant under this Agreement. Any
28 attempted assignment or delegation shall be void, and any assignee or delegate shall

1 acquire no right or interest by reason of an attempted assignment or delegation.
2 Furthermore, Consultant shall not subcontract any portion of its performance without the
3 prior approval of the City Manager or designee, or substitute an approved subconsultant
4 or contractor without approval prior to the substitution. Nothing stated in this Section
5 shall prevent Consultant from employing as many employees as Consultant deems
6 necessary for performance of this Agreement.

7 7. CONFLICT OF INTEREST. Consultant, by executing this
8 Agreement, certifies that, at the time Consultant executes this Agreement and for its
9 duration, Consultant does not and will not perform services for any other client which
10 would create a conflict, whether monetary or otherwise, as between the interests of City
11 and the interests of that other client. And, Consultant shall obtain similar certifications
12 from Consultant's employees, subconsultants and contractors.

13 8. MATERIALS. Consultant shall furnish all labor and supervision,
14 supplies, materials, tools, machinery, equipment, appliances, transportation and services
15 necessary to or used in the performance of Consultant's obligations under this
16 Agreement, except as stated in Exhibit "D".

17 9. OWNERSHIP OF DATA. All materials, information and data
18 prepared, developed or assembled by Consultant or furnished to Consultant in
19 connection with this Agreement, including but not limited to documents, estimates,
20 calculations, studies, maps, graphs, charts, computer disks, computer source
21 documentation, samples, models, reports, summaries, drawings, designs, notes, plans,
22 information, material and memorandum ("Data") shall be the exclusive property of City.
23 Data shall be given to City, and City shall have the unrestricted right to use and disclose
24 the Data in any manner and for any purpose without payment of further compensation to
25 Consultant. Copies of Data may be retained by Consultant but Consultant warrants that
26 Data shall not be made available to any person or entity for use without the prior approval
27 of City. This warranty shall survive termination of this Agreement for five (5) years.

28 10. TERMINATION. Either party shall have the right to terminate this

1 Agreement for any reason or no reason at any time by giving fifteen (15) calendar days
2 prior notice to the other party. In the event of termination under this Section, City shall
3 pay Consultant for services satisfactorily performed and costs incurred up to the effective
4 date of termination for which Consultant has not been previously paid. The procedures
5 for payment in Section 1.B. with regard to invoices shall apply. On the effective date of
6 termination, Consultant shall deliver to City all Data developed or accumulated in the
7 performance of this Agreement, whether in draft or final form, or in process. And,
8 Consultant acknowledges and agrees that City's obligation to make final payment is
9 conditioned on Consultant's delivery of the Data to City.

10 11. CONFIDENTIALITY. Consultant shall keep all Data confidential and
11 shall not disclose the Data or use the Data directly or indirectly, other than in the course
12 of performing its services, during the term of this Agreement and for five (5) years
13 following expiration or termination of this Agreement. In addition, Consultant shall keep
14 confidential all information, whether written, oral or visual, obtained by any means
15 whatsoever in the course of performing its services for the same period of time.
16 Consultant shall not disclose any or all of the Data to any third party, or use it for
17 Consultant's own benefit or the benefit of others except for the purpose of this
18 Agreement.

19 12. BREACH OF CONFIDENTIALITY. Consultant shall not be liable for
20 a breach of confidentiality with respect to Data that: (a) Consultant demonstrates
21 Consultant knew prior to the time City disclosed it; or (b) is or becomes publicly available
22 without breach of this Agreement by Consultant; or (c) a third party who has a right to
23 disclose does so to Consultant without restrictions on further disclosure; or (d) must be
24 disclosed pursuant to subpoena or court order.

25 13. ADDITIONAL COSTS AND REDESIGN.

26 A. Any costs incurred by City due to Consultant's failure to meet
27 the standards required by the scope of work or Consultant's failure to perform fully
28 the tasks described in the scope of work which, in either case, causes City to

1 request that Consultant perform again all or part of the Scope of Work shall be at
2 the sole cost of Consultant and City shall not pay any additional compensation to
3 Consultant for its re-performance.

4 B. If the Project involves construction and the scope of work
5 requires Consultant to prepare plans and specifications with an estimate of the
6 cost of construction, then Consultant may be required to modify the plans and
7 specifications, any construction documents relating to the plans and specifications,
8 and Consultant's estimate, at no cost to City, when the lowest bid for construction
9 received by City exceeds by more than ten percent (10%) Consultant's estimate.
10 This modification shall be submitted in a timely fashion to allow City to receive new
11 bids within four (4) months after the date on which the original plans and
12 specifications were submitted by Consultant.

13 14. AMENDMENT. This Agreement, including all Exhibits, shall not be
14 amended, nor any provision or breach waived, except in writing signed by the parties
15 which expressly refers to this Agreement.

16 15. LAW. This Agreement shall be construed in accordance with the
17 laws of the State of California, and the venue for any legal actions brought by any party
18 with respect to this Agreement shall be the County of Los Angeles, State of California for
19 state actions and the Central District of California for any federal actions. Consultant
20 shall cause all work performed in connection with construction of the Project to be
21 performed in compliance with (1) all applicable laws, ordinances, rules and regulations of
22 federal, state, county or municipal governments or agencies (including, without limitation,
23 all applicable federal and state labor standards, including the prevailing wage provisions
24 of sections 1770 *et seq.* of the California Labor Code); and (2) all directions, rules and
25 regulations of any fire marshal, health officer, building inspector, or other officer of every
26 governmental agency now having or hereafter acquiring jurisdiction.

27 16. PREVAILING WAGES.

28 A. Consultant agrees that all public work (as defined in California

1 Labor Code section 1720) performed pursuant to this Agreement (the "Public
2 Work"), if any, shall comply with the requirements of California Labor Code
3 sections 1770 *et seq.* City makes no representation or statement that the Project,
4 or any portion thereof, is or is not a "public work" as defined in California Labor
5 Code section 1720.

6 B. In all bid specifications, contracts and subcontracts for any
7 such Public Work, Consultant shall obtain the general prevailing rate of per diem
8 wages and the general prevailing rate for holiday and overtime work in this locality
9 for each craft, classification or type of worker needed to perform the Public Work,
10 and shall include such rates in the bid specifications, contract or subcontract.
11 Such bid specifications, contract or subcontract must contain the following
12 provision: "It shall be mandatory for the contractor to pay not less than the said
13 prevailing rate of wages to all workers employed by the contractor in the execution
14 of this contract. The contractor expressly agrees to comply with the penalty
15 provisions of California Labor Code section 1775 and the payroll record keeping
16 requirements of California Labor Code section 1771."

17 17. ENTIRE AGREEMENT. This Agreement, including all Exhibits,
18 constitutes the entire understanding between the parties and supersedes all other
19 agreements, oral or written, with respect to the subject matter in this Agreement.

20 18. INDEMNITY.

21 A. Consultant shall indemnify, protect and hold harmless City, its
22 Boards, Commissions, and their officials, employees and agents ("Indemnified
23 Parties"), from and against any and all liability, claims, demands, damage, loss,
24 obligations, causes of action, proceedings, awards, fines, judgments, penalties,
25 costs and expenses, including attorneys' fees, court costs, expert and witness
26 fees, and other costs and fees of litigation, arising or alleged to have arisen, in
27 whole or in part, out of or in connection with (1) Consultant's breach or failure to
28 comply with any of its obligations contained in this Agreement, including any

1 obligations arising from the Project's compliance with or failure to comply with
2 applicable laws, including all applicable federal and state labor requirements
3 including, without limitation, the requirements of California Labor Code section
4 1770 *et seq.* or (2) negligent or willful acts, errors, omissions or misrepresentations
5 committed by Consultant, its officers, employees, agents, subcontractors, or
6 anyone under Consultant's control, in the performance of work or services under
7 this Agreement (collectively "Claims" or individually "Claim").

8 B. In addition to Consultant's duty to indemnify, Consultant shall
9 have a separate and wholly independent duty to defend Indemnified Parties at
10 Consultant's expense by legal counsel approved by City, from and against all
11 Claims, and shall continue this defense until the Claims are resolved, whether by
12 settlement, judgment or otherwise. No finding or judgment of negligence, fault,
13 breach, or the like on the part of Consultant shall be required for the duty to defend
14 to arise. City shall notify Consultant of any Claim, shall tender the defense of the
15 Claim to Consultant, and shall assist Consultant, as may be reasonably requested,
16 in the defense.

17 C. If a court of competent jurisdiction determines that a Claim
18 was caused by the sole negligence or willful misconduct of Indemnified Parties,
19 Consultant's costs of defense and indemnity shall be (1) reimbursed in full if the
20 court determines sole negligence by the Indemnified Parties, or (2) reduced by the
21 percentage of willful misconduct attributed by the court to the Indemnified Parties.

22 D. The provisions of this Section shall survive the expiration or
23 termination of this Agreement.

24 19. AMBIGUITY. In the event of any conflict or ambiguity between this
25 Agreement and any Exhibit, the provisions of this Agreement shall govern.

26 20. NONDISCRIMINATION.

27 A. In connection with performance of this Agreement and subject
28 to applicable rules and regulations, Consultant shall not discriminate against any

1 employee or applicant for employment because of race, religion, national origin,
2 color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap or
3 disability. Consultant shall ensure that applicants are employed, and that
4 employees are treated during their employment, without regard to these bases.
5 These actions shall include, but not be limited to, the following: employment,
6 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or
7 termination; rates of pay or other forms of compensation; and selection for training,
8 including apprenticeship.

9 B. It is the policy of City to encourage the participation of
10 Disadvantaged, Minority and Women-Owned Business Enterprises in City's
11 procurement process, and Consultant agrees to use its best efforts to carry out
12 this policy in its use of subconsultants and contractors to the fullest extent
13 consistent with the efficient performance of this Agreement. Consultant may rely
14 on written representations by subconsultants and contractors regarding their
15 status. Consultant shall report to City in May and in December or, in the case of
16 short-term agreements, prior to invoicing for final payment, the names of all
17 subconsultants and contractors hired by Consultant for this Project and information
18 on whether or not they are a Disadvantaged, Minority or Women-Owned Business
19 Enterprise, as defined in Section 8 of the Small Business Act (15 U.S.C. Sec.
20 637).

21 21. EQUAL BENEFITS ORDINANCE. Unless otherwise exempted in
22 accordance with the provisions of the Ordinance, this Agreement is subject to the
23 applicable provisions of the Equal Benefits Ordinance (EBO), section 2.73 et seq. of the
24 Long Beach Municipal Code, as amended from time to time.

25 A. During the performance of this Agreement, the Consultant
26 certifies and represents that the Consultant will comply with the EBO. The
27 Consultant agrees to post the following statement in conspicuous places at its
28 place of business available to employees and applicants for employment:

1 “During the performance of a contract with the City of Long Beach,
2 the Consultant will provide equal benefits to employees with spouses and its
3 employees with domestic partners. Additional information about the City of
4 Long Beach’s Equal Benefits Ordinance may be obtained from the City of
5 Long Beach Business Services Division at 562-570-6200.”

6 B. The failure of the Consultant to comply with the EBO will be
7 deemed to be a material breach of the Agreement by the City.

8 C. If the Consultant fails to comply with the EBO, the City may
9 cancel, terminate or suspend the Agreement, in whole or in part, and monies due
10 or to become due under the Agreement may be retained by the City. The City
11 may also pursue any and all other remedies at law or in equity for any breach.

12 D. Failure to comply with the EBO may be used as evidence
13 against the Consultant in actions taken pursuant to the provisions of Long Beach
14 Municipal Code 2.93 et seq., Contractor Responsibility.

15 E. If the City determines that the Consultant has set up or used
16 its contracting entity for the purpose of evading the intent of the EBO, the City may
17 terminate the Agreement on behalf of the City. Violation of this provision may be
18 used as evidence against the Consultant in actions taken pursuant to the
19 provisions of Long Beach Municipal Code Section 2.93 et seq., Contractor
20 Responsibility.

21 22. NOTICES. Any notice or approval required by this Agreement shall
22 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,
23 postage prepaid, addressed to Consultant at the address first stated above, and to City at
24 333 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a
25 copy to the City Engineer at the same address. Notice of change of address shall be
26 given in the same manner as stated for other notices. Notice shall be deemed given on
27 the date deposited in the mail or on the date personal delivery is made, whichever occurs
28 first.

1 23. COPYRIGHTS AND PATENT RIGHTS.

2 A. Consultant shall place the following copyright protection on all
3 Data: © City of Long Beach, California _____, inserting the appropriate year.

4 B. City reserves the exclusive right to seek and obtain a patent
5 or copyright registration on any Data or other result arising from Consultant's
6 performance of this Agreement. By executing this Agreement, Consultant assigns
7 any ownership interest Consultant may have in the Data to City.

8 C. Consultant warrants that the Data does not violate or infringe
9 any patent, copyright, trade secret or other proprietary right of any other party.
10 Consultant agrees to and shall protect, defend, indemnify and hold City, its officials
11 and employees harmless from any and all claims, demands, damages, loss,
12 liability, causes of action, costs or expenses (including reasonable attorney's fees)
13 whether or not reduced to judgment, arising from any breach or alleged breach of
14 this warranty.

15 24. COVENANT AGAINST CONTINGENT FEES. Consultant warrants
16 that Consultant has not employed or retained any entity or person to solicit or obtain this
17 Agreement and that Consultant has not paid or agreed to pay any entity or person any
18 fee, commission or other monies based on or from the award of this Agreement. If
19 Consultant breaches this warranty, City shall have the right to terminate this Agreement
20 immediately notwithstanding the provisions of Section 10 or, in its discretion, to deduct
21 from payments due under this Agreement or otherwise recover the full amount of the fee,
22 commission or other monies.

23 25. WAIVER. The acceptance of any services or the payment of any
24 money by City shall not operate as a waiver of any provision of this Agreement or of any
25 right to damages or indemnity stated in this Agreement. The waiver of any breach of this
26 Agreement shall not constitute a waiver of any other or subsequent breach of this
27 Agreement.

28 26. CONTINUATION. Termination or expiration of this Agreement shall

1 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,
2 17, 19, 22 and 28 prior to termination or expiration of this Agreement.

3 27. TAX REPORTING. As required by federal and state law, City is
4 obligated to and will report the payment of compensation to Consultant on Form 1099-
5 Misc. Consultant shall be solely responsible for payment of all federal and state taxes
6 resulting from payments under this Agreement. Consultant shall submit Consultant's
7 Employer Identification Number (EIN), or Consultant's Social Security Number if
8 Consultant does not have an EIN, in writing to City's Accounts Payable, Department of
9 Financial Management. Consultant acknowledges and agrees that City has no obligation
10 to pay Consultant until Consultant provides one of these numbers.

11 28. ADVERTISING. Consultant shall not use the name of City, its
12 officials or employees in any advertising or solicitation for business or as a reference,
13 without the prior approval of the City Manager or designee.

14 29. AUDIT. City shall have the right at all reasonable times during the
15 term of this Agreement and for a period of five (5) years after termination or expiration of
16 this Agreement to examine, audit, inspect, review, extract information from and copy all
17 books, records, accounts and other documents of Consultant relating to this Agreement.

18 30. THIRD PARTY BENEFICIARY. This Agreement is not intended or
19 designed to or entered for the purpose of creating any benefit or right for any person or
20 entity of any kind that is not a party to this Agreement.

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OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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IN WITNESS WHEREOF, the parties have caused this document to be duly executed with all formalities required by law as of the date first stated above.

VANIR CONSTRUCTION MANAGEMENT, INC., a California corporation

_____, 2014

By [Signature]
Name John Nuprenas
Title President

_____, 2014

By [Signature]
Name Alexander N. Leon
Title CFO

"Consultant"

CITY OF LONG BEACH, a municipal corporation

7.1 _____, 2014

By [Signature] **Assistant City Manager**
City Manager

"City"

EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.

This Agreement is approved as to form on 6/18, 2014.

CHARLES PARKIN, City Attorney

By [Signature]
Deputy

Exhibit A

Scope of Work or Services

SCOPE OF SERVICES

The qualified firm, team or individual shall provide consulting services on an “as needed” basis for projects to be determined during the term of the contract.

As directed by the City, the on-call Project Manager will facilitate the procurement of architectural and engineering design teams as needed. The procurement efforts will be in conformance with all applicable City administrative guidelines and regulations. On-call Project Managers will manage and oversee the architectural and engineering design process to ensure projects designed for the City are of high quality and integrity, and such projects move forward in a timely and fiscally prudent manner, and will provide support throughout the project’s construction phase.

The on-call Project Manager will oversee the design, rehabilitation, and improvement of approved CIP which may include, but will not be limited to:

- Public buildings and facilities such as restrooms, libraries, lifeguard stations, Long Beach Convention Center amenities and facilities, health centers, community centers, parks, playgrounds, and maintenance buildings;
- Implementation of water treatment Best Management Practices (BMPs) including, but not limited to, low flow diversion systems, trash separation devices, and other storm drain devices;
- Improvements to waterway infrastructure and sensitive areas including the rehabilitation and upgrade of many of the City’s public piers and docks, lagoons, and bluffs;

The City’s CIP program is not limited to the projects above. Projects may range and vary in scope and size.

Basic Services

Project management is the discipline of planning, organizing, securing and managing resources to achieve specific goals as defined by the project specifications. The primary responsibility of the Consultant Project Manager is to achieve all of the project goals and objectives while honoring the project’s constraints. Primary constraints for a project can be identified as scope, time, and budget. The following services will be required of a qualified, professional on-call Project Manager on an “as needed” basis for assigned projects:

1. Represent the City and its interests in all negotiations, meetings, community outreach and related activities during all phases of the Project.
2. Manage and develop the process to solicit proposals for architectural and engineering design consultants. The process may include preparation and

evaluation of proposals; negotiations; recommendation of awards; and preparing and monitoring of contracts consistent with the City's administrative regulations.

3. Assist with preparation of grant applications.
4. Manage the implementation of the contract bid process including the assembly of bid documents, contract award, and contract execution.
5. Ensure all required entitlements and regulatory permits (local, regional, State, and Federal if applicable) are obtained including permits from necessary agencies such as the California Coastal Commission, Regional Water Quality Control Board, County Sanitation District, County Flood Control, U.S. Army Corps of Engineers, City of Long Beach, etc.
6. Monitor project performance and coordinate project meetings with City staff and consultant design team to ensure compliance with the City's design and construction standards, project schedules and project budgets.
7. Prepare project schedules in Microsoft Project Format and track all schedule deviations.
8. Identify, prepare, recommend and monitor any required changes to contract(s).
9. Manage issues related to the project including insurance, bonds, certified payroll, pay application, retainage, warranty, and grant accounting, and provide other situational resolutions as they may occur.
10. Maintain orderly and comprehensive records, documentation, design data, drawings, correspondence, etc. pertaining to project.
11. Ensure project accounting and reporting procedures can support informational needs as requested by the City Departments, and applicable Grantors.
12. Upon project completion, ensure all close-out procedures, reporting requirements, and records keeping are promptly met.
13. Other duties as necessary and assigned.

Exhibit B

Rates or Charges



City of Long Beach
Purchasing Division
333 W Ocean Blvd/7th Floor
Long Beach CA 90802

Exhibit A

SCHEDULE OF FIXED HOURLY RATES

Please attach and submit as part of the Cost Proposal.

A handwritten signature in black ink, appearing to be "JV", written over a horizontal line.

Vanir Construction Management Inc.

10/25/13

Signed

Name of Firm

Date



SECTION 10 – COST

The following rates are fully burdened and include direct salary, mandatory costs, applicable taxes, benefits, overhead, and profit.

Project Management Services	
Position	Rate*
Management	
Project Director / Project Executive	\$180
Senior Project Manager	\$155
Project Manager	\$145
Construction Manager	\$135
Project Engineer	\$119
SWPPP Compliance Specialist	\$119
Assistant Project Manager / Construction Manager	\$113
Document Control	\$88
Support Services	
Senior Scheduler	\$138
Scheduler	\$117
Senior Estimator	\$132
Estimator	\$110
Constructibility Review	\$140
BIM Specialist	\$145

* Vanir Construction Management, Inc. provides professional services that do not fall under prevailing wage determination guidelines.

OUT OF POCKET REIMBURSABLE EXPENSES

Out of pocket reimbursable expenses to be invoiced at costs, unless provided by the District, include printing, transportation beyond the committed distances, postage and overnight deliveries, office space/trailer/supplies/furnishing/computers/software/fax machine/copy machine/telephone/internet/temporary facilities and other items required by the project.

EXHIBIT “C”

City’s Representative:

Eric Lopez, Tidelands CIP Officer

(562) 570-5690

Exhibit D

Materials/Information Furnished: None