

SANTA BARBARA CITY AGREEMENT NO. 25,203

With

Mimiaga Engineering Group for El Estero Wastewater Treatment Plant Influent Pump VFD and PLC Replacement Project

This Contract is entered into on May 19, 2015, by and between:

The City of Santa Barbara, a Municipal Corporation, referred to herein as the "City,"

and,

Mimiaga Engineering Group, a California Partnership, referred to herein as the "Contractor,"

WITNESSETH:

WHEREAS, Contractor has the special background, training and experience required by City, and in consideration of the mutual covenants, conditions, promises and agreements, herein, the City and Contractor **AGREE**:

1. SCOPE OF CONTRACTOR SERVICES

a. Contractor agrees to provide construction management services to the City for the replacement of two existing variable frequency drives for the low flow pumps and the updating of the programmable logic controller in the City's El Estero Wastewater Treatment Plant as described in **more detail in the attached scope of services (Exhibit A)** dated March 16, 2015.

2. COMPENSATION

a. The total compensation for all services provided pursuant to this Contract, including all extra services as defined in Section 3 hereof and reimbursable expenses, shall not exceed the sum of **\$122,100** without the express written approval of City Council of the City of Santa Barbara. The basic contract is for **\$111,000** and the total that may be claimed for Extra Services under Section 3 of this Contract shall not exceed **\$11,100**. This Contract provides the exclusive means of payment and reimbursement for costs to Contractor by the City.

b. Changes in personnel or in rates of compensation set forth in Exhibit A may be made only after written notice to and written approval by the Public Works Director, Rebecca J. Bjork ("Department Head").

c. Where travel costs are included in Exhibit A, only the actual travel costs (at fare, rate per mile or lump sum approved), and/or actual expenses pursuant to the provisions of the Contract and within guidelines approved by the City Finance Director will be reimbursed.

d. Contractor may be reimbursed for such other necessary costs, including actual costs of copies, printing, postage, shipping and documents expense, and all costs of

other materials, equipment, services and supplies, as approved and required to complete the work, according to the attached Exhibit A.

e. Compensation for Extra Services of Contractor authorized in accordance with Section 2 shall be paid to Contractor by City in accordance with the fee schedule set forth in Exhibit A. Contractor shall only be entitled to payment for Extra Services under this Contract if Contractor has obtained authorization required under Section 3 below.

f. Contractor shall submit itemized statements, which shall include a detailing of the number of hours spent on each task and copies of all subcontractors' invoices, to request payment in accordance with the standard billing format issued by the City Department. Contractor shall keep records concerning payment items on a generally recognized accounting basis and such records shall be maintained for a period of 3 years following the completion of the work assigned. Such records shall be made available for copying, inspection or audit by City employees or independent agents during reasonable business hours.

3. EXTRA SERVICES OF CONTRACTOR

Prior to performing any services other than those described in Exhibit A ("Extra Services"), Contractor shall submit a written request for Extra Services and obtain the written approval of the Department Head or his/her designee. The request for Extra Services shall at minimum include a description of the services to be performed, the reason why the Extra Services are needed or required, a schedule for completion of the proposed Extra Services, and a not-to-exceed amount for performance of the proposed Extra Services. Each approved Extra Services request shall be billed separately.

4. TIME OF BEGINNING AND COMPLETION

Services shall begin upon full execution of this Contract by the City, and delivery of a fully executed copy of the Contract to the Contractor. Contractor shall adhere to schedules and deadlines agreed to by City and Contractor shown in Exhibit A. Contractor's failure to complete the above services within the time specified, due to avoidable delays, may at the City's discretion be considered a material breach of this Contract. Contractor shall review the remaining work and schedule of performance at least monthly and shall confirm that completion may be expected within the schedule approved, or in the alternative, give immediate notice when it shall first appear that the approved schedule will not be sufficient, together with an explanation for any projected insufficiency of delays in the schedule. No extension of time to complete any portion of the services called for in the Contract shall be allowed except upon the express, written approval of the Department Head. Contractor shall request, in writing, a time extension for approval by City, promptly upon the occurrence of any action causing delay in Contractor's prosecution of the services. The nature of the delay, the corrective actions taken and the impacts on the project schedule shall be described in each request for a time extension.

5. OWNERSHIP OF DOCUMENTS

All documents, computer programs, plans, renderings, charts, designs, drafts, surveys and other intellectual property which is originally developed by Contractor pursuant to this Contract shall become the property of City upon full and complete compensation to Contractor for services performed herein. Contractor will take such steps as are necessary to perfect or to protect the ownership interest of the City in such property. Contractor may retain copies of said documents for Contractor's file.

6. ASSIGNMENT OF CONTRACT

Contractor shall not assign, sublet or transfer any right, privilege or interest in this Contract, or any part thereof, without prior written consent of City. Contractor shall not substitute personnel designated in the proposal of Contractor without the written consent of City.

7. OFFICIAL NOTICES

Notices to either party shall be provided by personal delivery or by depositing them in the United States mail, first class postage prepaid, and addressed as identified at the signature page of this Contract. A party may change mailing address for all purposes under this Contract, by written notice.

8. DEFENSE, INDEMNITY AND HOLD HARMLESS

a. Contractor shall, to the extent permitted by law, investigate, defend, indemnify and hold harmless the City, its officers, employees and agents from and against any and all loss, damage, liability, claims, demands, detriments, costs, charges and expenses (including reasonable attorney fees) and causes of action of whatsoever character which the City may incur, sustain or be subjected to on account of loss or damage to property or loss of use thereof, or for bodily injury to or death of any persons (including but not limited to property, employees, subcontractors, agents and invitees of each party hereto) arising out of or in any way connected with the work to be performed under this Agreement other than as such work relates to Professional Liability Insurance.

b. With respect to Professional Liability Insurance, Contractor shall investigate, defend, indemnify and hold harmless the City, its officers, agents and employees from and against any and all loss, damage, liability, claims, demands, detriments, costs, charges and expenses (including reasonable attorney's fees) and causes of action of whatsoever character which City may incur, sustain or be subjected to on account of loss or damage to property or loss of use thereof, or for bodily injury to or death of any persons (including but not limited to property, employees, subcontractors, agents and invitees of each party hereto) arising out of or due to the acts, errors or omissions of Contractor.

9. INSURANCE REQUIREMENTS

As part of the consideration of this Agreement, Contractor agrees to purchase and maintain at its sole cost and expense during the life of this agreement insurance coverage against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

MINIMUM SCOPE AND LIMIT OF INSURANCE

Coverage shall be at least as broad as:

- A. Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations with limits of no less than Two Million Dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage. If a general aggregate limit applies, either the aggregate limit shall apply separately to this project or the general aggregate limit shall be twice the required occurrence limit.
- B. Automobile Liability: Insurance Services Office Form Number CA 0001 covering Code 1 (any auto), or if Contractor has no owned autos, Code 8 (hired) and Code 9 (non-owned), with limits of no less than One Million Dollars (\$1,000,000) per accident for bodily injury and property damage.
- C. Workers' Compensation: In accordance with the provisions of the California Labor Code, Contractor is required to be insured against liability for Workers' Compensation or to undertake self-insurance. Statutory Workers' Compensation and Employers' Liability of at least \$1,000,000 shall cover all Contractor's staff while performing any work incidental to the performance of this agreement.
- D. Professional Liability: Professional Liability (Errors and Omission) Insurance appropriate to the Contractor's profession, with limit no less than One Million Dollars (\$1,000,000) per occurrence or claim and Two Million Dollars (\$2,000,000) aggregate to cover all services rendered by the Contractor pursuant to this Agreement.

If the Contractor maintains higher coverage limits than the amounts shown above, then the City requires and shall be entitled to coverage for the higher coverage limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

OTHER INSURANCE PROVISIONS

Each insurance policy shall contain, or be endorsed to contain, the following five (5) provisions:

1) Additional Insured Status

The City of Santa Barbara, its officers, employees, and agents, shall be covered as additional insureds on the Commercial General Liability and the Automobile Liability policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations and automobiles owned, leased, hired, or borrowed by or on behalf of the Contractor. Additional Insured coverage shall be provided in the form of an endorsement to the Contractor's insurance (at least as broad as Insurance Services Office Form CG 20 10 11 85). A copy of the endorsement evidencing that the City of Santa Barbara has been added as an additional insured on the policy, must be attached to the certificate of insurance.

2) Subcontractors

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that the City is an additional insured on insurance required from subcontractors. For Commercial General Liability coverage subcontractors shall provide coverage with a format at least as broad as Insurance Services Office form CG 20 38 04 13.

3) Notice of Cancellation

A provision that coverage will not be cancelled or subject to reduction without written notice given to the City Clerk, addressed to P.O. Box 1990, Santa Barbara, California 93102-1990.

4) Primary Coverage

For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City shall be excess of the Contractor's insurance and shall not contribute with it.

5) Waiver of Subrogation

Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents and subcontractors.

ACCEPTABILITY OF INSURERS

All insurance coverage shall be placed with insurers that have a current rating from AM Best of no less than A: VII; and are admitted insurance companies in the State of California. All other insurers require prior approval of the City.

CLAIMS MADE POLICIES

If the required Professional Liability (Errors and Omissions) policy provides coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

COVERAGE LIMITS SPECIFICATIONS

Approval of the insurance by City or acceptance of the certificate of insurance by City shall not relieve or decrease the extent to which the Contractor may be held responsible for payment of damages resulting from Contractor's services or operation pursuant to this Agreement, nor shall it be deemed a waiver of City's rights to insurance coverage hereunder.

If, for any reason, Contractor fails to maintain insurance coverage which is required pursuant to this Agreement, the same shall be deemed a material breach of contract. City, at its sole option, may terminate this Agreement and obtain damages from the Contractor resulting from said breach. Alternately, City may purchase such required insurance coverage, and without further notice to Contractor, City may deduct from sums due to Contractor any premium costs advanced by City for such insurance.

DEDUCTIBLES AND SELF-INSURED RETENTIONS

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the Contractor shall cause the insurer to reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees, and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

EVIDENCE OF COVERAGE

Contractor must provide evidence that it has secured the required insurance coverage before execution of this agreement. A Certificate of Insurance supplied by the City or the appropriate ACORD and Insurance Services Office forms evidencing the above shall be completed by Contractor's insurer or its agent and submitted to the City prior to execution of this Agreement by the City.

Contractor shall furnish the City with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the City before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

10. TERMINATION

This Contract may be terminated with or without cause by either party at any time by giving the other no less than thirty (30) days notice in writing. In the event of such termination, Contractor shall deliver all programs, drawings, surveys, drafts, plans, work in progress and other documents related to the project to the City within five (5) days of the notice of termination. In the event of such termination, Contractor shall be compensated for such services as are performed and work product delivered to the City up to the point of termination.

11. RIGHT TO PERFORM SIMILAR SERVICES

Nothing in this Contract shall restrict the City from providing the same or similar services through City employees, other contractors, other resources, or by arrangements with other agencies. Contractor may engage in similar activities to the extent that such work does not conflict with the proper performance of services under this Contract.

12. CONFLICT OF INTERESTS

Contractor warrants by execution of this Contract that no person or selling agent has been employed or retained to solicit or secure this Contract upon an agreement or understanding for commission, percentage, brokerage or contingent fee, and that Contractor maintains no agreement, employment, or position which would be in conflict with the duties to be performed for City under this Contract. Contractor further agrees that during the term of this Contract, Contractor will not obtain, engage in, or undertake any interests, obligations or duty that would be in conflict with, or interfere with, the services or duties to be performed under the provisions of this Contract.

13. ADMINISTRATION OF EMPLOYMENT

Contractor shall obtain and administer the employment of personnel having the background, training, experience, licenses and registration necessary for the work assigned, including all coordination, the withholding of proper taxes and benefits, the payment of wages, employer's contributions for FICA, and Federal and State unemployment payments, and the review and maintenance of any necessary licenses, certificates, memberships and other qualifications necessary for the services to be provided. Contractor is an independent contractor and shall not be considered an agent or employee of the City for any purpose. Contractor and its employees and agents are not entitled to any of the benefits or privileges that the City provides its employees.

14. BUSINESS TAX CERTIFICATE

Prior to the execution of the Contract, Contractor shall obtain a business tax certificate from the City at Contractor's expense. Contractor shall maintain a business tax certificate as required by the City Finance Director during the term of this Contract.

15. NO WAIVER OF PROVISIONS

No waiver of a breach of any provision of this Contract shall be construed to be a continuing waiver of that provision, nor a waiver of any breach of another provision of this Contract.

16. APPLICABLE LAWS, PARTIAL INVALIDITY

This Contract shall be subject to the Santa Barbara City Charter, and the laws, rules, regulations and ordinances in effect within the City of Santa Barbara, County of Santa Barbara, California, and any interpretation of the law that may be necessary shall be pursuant to the laws applicable within that jurisdiction. If any provision of this Contract is determined to be invalid, illegal or unenforceable for any reason, that provision shall be deleted from this Contract and such deletion shall in no way affect, impair, or invalidate any other provision of this Contract, unless it was material to the consideration for the performance required. If a provision is deleted which is not material to such consideration, the remaining provisions shall be given the force and effect originally intended.

17. NON-DISCRIMINATION ORDINANCE

Contractor shall perform all work pursuant to this Contract in compliance with Section 9.126.020 of the Santa Barbara Municipal Code (a copy of which is attached as Exhibit B), prohibiting unlawful discrimination in employment practices, and shall be bound by the terms of such ordinance.

18. CITY SERVICE CONTRACTOR MANDATORY MINIMUM WAGE

a. Chapter 9.128 of the Santa Barbara Municipal Code establishes a mandatory minimum wage for employees of contractors providing services to the City. In the performance of this Agreement, Contractor and any subcontractor, agent, or assignee of Contractor under this Agreement shall comply with the provisions of Chapter 9.128 of the Municipal Code as such Chapter existed upon the adoption of this Agreement or the last date this Agreement was amended.

b. Current Living Wage Certificates on forms supplied by the City shall be completed by Contractor, submitted to City prior to execution of this Contract by City, and attached as Exhibit C. Contractor shall require any and all subcontractors and all tiers of such subcontractors to provide Living Wage Certificates as required by Santa Barbara Municipal Code Chapter 9.128.

19. NONAPPROPRIATIONS OF FUNDS

Notwithstanding any other provision of this Agreement, in the event that no funds or insufficient funds are appropriated or budgeted by the City, or funds are not otherwise available for payments in the fiscal year(s) covered by the term of this Agreement, then City will notify Contractor of such occurrence and City may terminate or suspend this Agreement in whole or in part, with or without a prior notice period. Subsequent to termination of this Agreement under this provision, City shall have no obligation to make payments with regard to the remainder of the term.

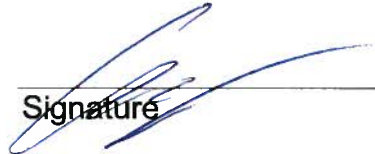
IN WITNESS WHEREOF, the parties have executed this contract as of
the date and year first written above.

CITY OF SANTA BARBARA
A Municipal Corporation

Mimiaga Engineering Group



Rebecca J. Bjork
Public Works Director



Signature

ATTEST:



Gwen Peirce, CMC
City Clerk Services Manager

CARLOS SANCHEZ

Type or Print Name

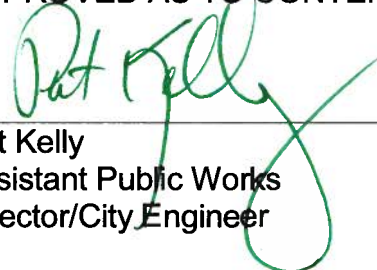
PARTNER

Title

624 VIA GARDULANDU

Address

APPROVED AS TO CONTENT:



Pat Kelly
Assistant Public Works
Director/City Engineer

VENTURA CA 93003

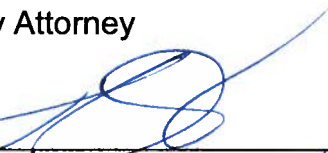
City State Zip

805-451-4090

Telephone Number

APPROVED AS TO FORM:

Ariel Pierre Calonne
City Attorney

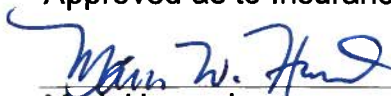
By 

T. Ostrengel

Business Tax Compliance:
Certificate No. 973948

By J Yanez

Approved as to Insurance:



Mark Howard
Risk Manager

EXHIBIT A

Scope of Services



March 16, 2015

Amanda Flesse
Supervising Civil Engineer
630 Garden St
Santa Barbara, CA 93102

**Subject: Proposal to Provide Construction Management Services
El Estero Wastewater Treatment Plant Influent Pump VFD and PLC Replacement Project**

Dear Amanda,

Mimiaga Engineering Group is pleased to provide the City with the following proposal to provide Construction Management Services related to the El Estero Wastewater Treatment Plant Influent Pumps VFD and PLC Replacement Project.

Scope of services includes the following:

- 1) IPS Pump No. 1 High Vibration Issues: Assist City staff with resolution of issues related to this item. Estimated 200 hours.
- 2) IPS 900 kW Generator Day Tank: Assist City staff with feedback of design, procurement, installation, startup, punchlist issues, and staff training related to this item. Estimated 50 hours.
- 3) IPS VFD/PLC Replacement Project: Provide Construction Management services to this Project. Work will include, but is not limited to, providing feedback on design, oversight, coordinating & inspecting work, assist with resolving issues, manage changes in scope of work, and assisting with startup work. Estimated 540 hours.

Not to Exceed Proposed Fee:

IPS Pump No 1 Vibration Issues	200 hours @ \$120/hour	=	\$24,000.00
IPS 900kW Genset Day Tank	50 hours @ \$120/hour	=	\$6,000.00
<u>IPS VFD/PLC Replacement Project</u>	<u>540 hours @ \$150/hour</u>	<u>=</u>	<u>\$81,000.00</u>
	Total Proposed Fee:		\$111,000.00

Thank you for your consideration of this request. Let me know if you have any questions or comments.

Sincerely,

Carlos Sanchez, P.E.,
Construction Manager

Mimiaga Engineering Group
624 Via Ondulando
Ventura, CA 93003
Mobile 805-451-4090
sanchx01@earthlink.net

**Cost Proposal For Construction Management Services
 For City of Santa Barbara
 El Estero WWTP IPS PLC & VFD Replacement Project**



Schedule	2015												2016						
	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept
El Estero IPS VFD/PLC																			
Bid Phase	///	///	///	///															
Construction (13 mo)					xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	xxx	
Close-Out Services																		xxx	

Staffing Plan and Fee																			Hours	Rate	Total Cost
Carlos Sanchez, P.E. Construction Manager	16	12	12	20	32	32	80	80	32	8	8	8	8	8	80	80	12	12	540	\$150	\$81,000
Carlos Sanchez, P.E. Construction Manager	62	62	62	64															250	\$120	\$30,000
TOTAL																			790		\$111,000

EXHIBIT B

Contractor's Nondiscriminatory Employment Certificate

CONTRACTOR'S NONDISCRIMINATORY EMPLOYMENT CERTIFICATE **Santa Barbara Municipal Code § 9.126.020**

A. Certificate Generally

Consistent with a policy of nondiscrimination in employment on contracts of the City of Santa Barbara and in furtherance of the provisions of Section 1735 and 1777.6 of the California Labor Code a "contractor's obligation for nondiscriminatory employment certificate" as hereinafter set forth shall be attached and incorporated by reference as an indispensable and integral term of all bid specifications and contracts of the City for purchases, services, and the construction, repair, or improvement of public works.

B. Contents of Certificate

The Contractor's obligation for nondiscriminatory employment is as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Section 12900-12996), except where such discrimination is based on a bona fide occupational qualification. The Contractor will take positive action or ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Section 12900-12996), except where such discrimination is based on a bona fide occupational qualification. Such action shall include but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this nondiscrimination clause.
2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, national origin, ancestry, sexual orientation, political affiliation or beliefs, sex, age, physical handicap, medical condition, marital status or pregnancy (as those terms are defined by the California Fair Employment and Housing Act -- Government Code Section 12900-12996), except where such discrimination is based on a bona fide occupational qualification.
3. The Contractor will send to each labor union or representative of workers, with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the City advising the said labor union or workers' representative of the Contractor's commitments under this provision, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Contractor will permit access to his records of employment, employment advertisements, application forms, and other pertinent data and records by the City, the Fair Employment Practices Commission, or any other appropriate agency of the State designated by the City for the purposes of investigation to ascertain compliance with the Contractor's Obligation for Nondiscriminatory Employment provisions of this contract, or Fair Employment Practices statute.

5. A finding of willful violation of the nondiscriminatory employment practices article of this contract or of the Fair Employment Practices Act shall be regarded by the City as a basis for determining that as to future contracts for which the Contractor may submit bids, the Contractor is a "disqualified bidder" for being "nonresponsible".

The City shall deem a finding of willful violation of the Fair Employment Practices Act to have occurred upon receipt of written notice from the Fair Employment Practices Commission that it has investigated and determined that the Contractor has violated the Fair Employment Practices Act and has issued an order under Labor Code Section 1426 or obtained an injunction under Labor Code Section 1429.

Upon receipt of any such written notice, the City shall notify the Contractor that unless he demonstrates to the satisfaction of the City within a stated period that the violation has been corrected, he shall be declared a "disqualified bidder" until such time as the Contractor can demonstrate that he has implemented remedial measures, satisfactory to the City, to eliminate the discriminatory employment practices which constituted the violation found by the Fair Employment Practices Commission.

6. Upon receipt from any person of a complaint of alleged discrimination under any City contract, the City Administrator shall ascertain whether probable cause for such complaint exists. If probable cause for the complaint is found, the City Administrator shall request the City Council to hold a public hearing to determine the existence of a discriminatory practice in violation of this contract.

In addition to any other remedy or action provided by law or the terms of this contract, the Contractor agrees that, should the City Council determine after a public hearing duly noticed to the Contractor that the Contractor has not complied with the nondiscriminatory employment practices provisions of this contract or has willfully violated such provisions, the City may, without liability of any kind, terminate, cancel, or suspend this contract, in whole or in part. In addition, upon such determination the Contractor shall, as a penalty to the City, forfeit a penalty of \$25.00 for each calendar day, or portion thereof, for each person who was denied employment as a result of such noncompliance. Such moneys shall be recovered from the Contractor. The City may deduct any such penalties from any moneys due the Contractor from the City.

7. The Contractor certifies to the City that he has met or will meet the following standards for positive compliance, which shall be evaluated in each case by the City:
 - a. The Contractor shall notify all supervisors, foremen and other personnel officers in writing of the content of the nondiscrimination provision and their responsibilities under it.
 - b. The Contractor shall notify all sources of employee referrals (including unions, employment agencies, advertisements, Department of Employment) of the content of the nondiscrimination provision.
 - c. The Contractor shall file a basic compliance report as required by the City. Willfully false statements made in such reports shall be punishable as provided by law. The compliance report shall also specify the sources of the work force and who has the responsibility for determining whom to hire, or whether or not to hire.
 - d. The Contractor shall notify the City of opposition to the nondiscrimination provision by individuals, firms or organizations during the period of this contract.
8. Nothing contained in this Contractor's Obligation for Nondiscriminatory Employment Certificate shall be construed in any manner to prevent the City from pursuing any other remedies that may be available at law.

9. The Contractor certifies to the City that he will comply with the following requirements with regard to all subcontractors and suppliers:
- a. In the performance of the work under this contract, the Contractor will include the provisions of the foregoing paragraphs (1) through (8) in all subcontracts and in any supply contract to be performed within the State of California, so that such provisions will be equally binding upon each subcontractor and each supplier.
 - b. Contractor will take such action with respect to any subcontract or purchase order as the City may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction by the City, the Contractor may request the City to enter into such litigation to protect the interests of the City.

EXHIBIT C

Contractor's Living Wage Certificate

LIVING WAGE CERTIFICATION

Official notification to: _____.

_____.

_____.

The service contract that is pending between your company and the City of Santa Barbara is subject to the City of Santa Barbara Living Wage Ordinance, SBMC Chapter 9.128 (hereinafter referred to as "the Ordinance"). Pursuant to this ordinance, you are hereby notified that your company is required to demonstrate compliance by completing and returning the attached compliance statement. This statement must be completed and returned before contract commencement. **You may fax the compliance statement to: either the requesting department or to the City of Santa Barbara Finance Department (Purchasing) at (805) 897-1977.**

Please Note: Current living wage rates will apply to all subsequent contracts and amendments during the remainder of the current fiscal year ending June 30, 2015.

The City of Santa Barbara Living Wage Ordinance was adopted on April 4, 2006 (Ordinance number 5384). All capitalized terms used herein are used as defined in the Ordinance. The Ordinance requires that persons directly working on City of Santa Barbara contracts, for services specified in the ordinance, are to be paid a living wage while working on the City of Santa Barbara contract. The Ordinance only applies to those persons directly providing services to the City and does not apply to administrative or support staff employees of a Service Contract, such as administrators, payroll, personnel, or similar employees. The Ordinance also does not apply to employees who are Handicapped, Apprentices, Learners, or Student Interns, who are otherwise part of an employer's training program as those terms are defined in the Ordinance. The Ordinance also states that employees have the right to expressly negotiate and agree to wage and benefit levels different than those required by the Ordinance.

The Ordinance requires that employees working for your firm on this contract be notified that the City of Santa Barbara Living Wage Ordinance applies to them. As part of compliance for this contract, you are required to notify affected employees.

Effective from July 1, 2014, through June 30, 2015, the current rate for minimum compensation to employees is:

1. If benefits are not provided to an Employee, a wage of no less than \$16.70 per hour.
2. If Basic Medical Insurance and Compensated Holidays are provided to the Employee, a wage of no less than \$14.32 per hour.
3. If Supplemental Employee Benefits are provided to the Employee, a wage of no less than \$13.12 per hour.

(All capitalized terms used herein are used as defined in the Ordinance, SBMC Chapter 9.128)

Also be advised that the City may request any or all certified payrolls associated with this contract, however, any such request will be made to your firm in writing and provide fourteen calendar days to respond. The City may also conduct on-site audits to verify compliance. These audits may include, but are not limited to, employee interviews.

Direct questions regarding this Ordinance to General Services Manager, City of Santa Barbara Finance Department, P.O. Box 1990, Santa Barbara, CA 93102.

1. * Select A, B C or D below.

A. **The Living Wage Ordinance does not apply to this contract because:**

- Exemption for Handicapped Individuals and Apprentices.** For the purposes of this form, an employee shall not include a “handicapped employee” employed pursuant to a special license issued under Sections 1191 and 1191.5 of the state Labor Code or an “apprentice” or “learner” employed pursuant to a special license issued under Section 1192 of the state Labor Code.
- Exemption for Student Interns.** For the purposes of this form, an employee shall also not include a student intern which shall be defined as a person receiving educational or school credit at a duly licensed and accredited school or educational institution as part of or in connection with his or her employment or service with the City Service Contractor.
- Public Entity.**
- Non-profit exemption.**
- Workers are part of a bona fide collective bargaining agreement.**
- Persons employed are defined as executive or professional as used in the federal Fair Labors Standards Act of 1938 (29 USC Section 201 et. seq.).**
- Services are incidental. Explain: _____

*** Complete the certification portion on page 3.**

B. Employees working on City of Santa Barbara contracts receive a pay rate that meets or exceeds the City of Santa Barbara Living Wage requirement of \$16.70 per hour without benefits.

** Complete items #2, #3, #4, #5 and the certification portion on page 3.*

C. Employees working on City of Santa Barbara contracts receive a pay rate that meets the City of Santa Barbara Living Wage requirement of \$14.32 per hour with the following benefits:

1. A combined twelve days compensated leave time annually for full-time employees, and prorated leave for employees working less than full time
2. Basic Medical Insurance Coverage for the Employee.

** Complete items #2, #3, #4, #5, #6 and the certification portion on page 3.*

D. Employees working on City of Santa Barbara contracts receive a pay rate that meets the City of Santa Barbara Living Wage requirement of \$13.12 per hour with all of the following benefits:

1. A combined twelve days compensated leave time annually for full-time employees, and prorated leave for employees working less than full time
2. Basic Medical Insurance Coverage for the Employee.

3. Basic Medical Insurance Coverage for the Employee's spouse, domestic partner or family.
4. One additional Supplemental Benefit as defined in the Ordinance.
 - Pension or deferred compensation retirement plan.
 - Childcare or dependent care.
 - Equivalent of ten (10) eight hour days of compensated leave over and above the compensated leave in item 1.
 - Other: _____

* Complete items #2, #3, #4, #5, #6 and the certification portion on page 3.

2. Will any subcontractors perform work on this contract? Yes No

If yes, please indicate company(s) on an additional page.

3. Will you post employee notification form in an area accessible to employees working on City of Santa Barbara contracts? Yes No

4. You may be required to provide certified payroll records, time cards, and other records any time during the contract period to demonstrate compliance. These payroll records must include the following information for each employee working on this contract: employee name, job classification, employer benefit contribution, and hourly pay under this contract.

Do you agree to provide this information within 14 calendar days when requested? Yes No

The City may also perform on site payroll audits that may include, but are not limited to, employee interviews.

5. a) Please provide the total affect that the Living Wage requirements had on your bid price (i.e., no cost affect, increase bid price by \$..., etc.)?

No COST AFFECT

b) How many employees benefited from the living wage requirement? 0

c) How much did the above employees benefit in aggregate during the contract:

\$ 0

6. The City has several insurance plans. To qualify for a lower wage tier, you must offer insurance at no cost to your employees and match one of the following plans in terms of co-pays/out-of-pocket expenses.

Aetna HMO: No deductible, \$100 co-pay for emergency room visits, no charge for preventative care, \$25 co-pay for office visits to Primary Care Physicians/\$35 co-pay to Specialists; Prescriptions: \$20 co-pay for generics; \$30 co-pay for brand, & \$45 co-pay for non-formulary.

Kaiser HMO: No deductible, \$35 co-pay for emergency room visits, no charge for preventative care, \$10 co-pay for office visits; Prescriptions: \$5 co-pay for generics; \$15 co-pay for brand & non-formulary is not covered.

Aetna Open Access Managed Care PPO: Deductibles: \$500/individual \$1,000/family, \$100 co-pay + 20% coinsurance for emergency room visits, no charge for preventative care, \$25 co-pay for office visits; Prescriptions: \$20 co-pay for generics; \$30 co-pay for brand, & \$45 for non-formulary.

Aetna Health Reimbursement PPO: Deductibles: \$2,000/individual \$4,000/family, 20% coinsurance for emergency room visits, no charge for preventative care, 20% coinsurance for office visits; Prescriptions: \$10 co-pay for generics; \$20 co-pay for brand, & \$35 for non-formulary.

Aetna Health Savings Account PPO: Deductibles: \$2,500/employee only coverage, \$5,000/family, 20% coinsurance for emergency room visits, no charge for preventative care, 20% coinsurance for office visits; Prescriptions: \$15 co-pay for generics; \$25 co-pay for brand, & \$40 for non-formulary.

The signatory below hereby certifies, under penalty of perjury, that the forgoing information is correct:

MIMIAGA ENGINEERING GROUP

Company Name

624 VIA ONDULANDO VENTURA CA 93003

Company Address

City, State, Zip

CARLOS SANCHEZ 805-451-4090

Contact Name

Phone number

Fax number

CARLOS SANCHEZ, PARTNER

Name and Title (Please print)

Signature

3-30-15

Date

You may fax the compliance statement to: City of Santa Barbara Finance Department (Purchasing) at (805) 897-1977.