

AGREEMENT TO FURNISH CONSTRUCTION ENGINEERING
AND GEOLOGICAL SERVICES
FOR THE CALIFORNIA STREET LANDFILL HORIZONTAL EXPANSION

This Agreement is made and entered into this 7th day of September, 2004 by and between the City of Redlands, a municipal corporation (hereinafter "City") and Vector Engineering, Inc. hereinafter ("Consultant").

In consideration of the mutual promises contained herein, City and Consultant agree as follows:

ARTICLE 1 - ENGAGEMENT OF CONSULTANT

- 1.1 City hereby engages Consultant to perform professional engineering and geological services for the expansion of the California Street Landfill (the "Services") located at 2151 Nevada Street, Redlands, California.
- 1.2 The Services shall be performed by Consultant in a professional manner, and Consultant represents that it has the skill and the professional expertise necessary to provide the Services to City at a level of competency presently maintained by other practicing professional consultants in the industry providing similar types of services.

ARTICLE 2 - SERVICES OF CONSULTANT

- 2.1 The specific Services which Consultant shall perform are described in Attachment "A," entitled "Scope of Services," which is attached hereto and incorporated herein by this reference.
- 2.2 Consultant shall comply with all applicable Federal, State and local laws in its performance of the Services including, but not limited to, all California Labor Code requirements and non-discrimination laws including the Federal Americans with Disabilities Act and the state's Fair Employment and Housing Act.
- 2.3 Consultant acknowledges and agrees that if it violates the provisions of the California Labor Code relating to prevailing wage that City may withhold payments to Consultant pursuant to Labor Code sections 1726, 1727 and 1771.6.
- 2.4 Consultant agrees that if it engages a subcontractor to perform any of the Services, that Consultant shall comply with California Labor Code sections 1775 and 1777.7, and shall provide the subcontractor with copies of the provisions of sections 1771, 1775, 1776, 1777.5, 1813 and 1815 of the Labor Code. Consultant acknowledges that the statutory provisions for penalties for failure to comply with state wage and hour laws and to pay prevailing wages may be enforced by the City pursuant to Labor Code sections 1775 and 1813.

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ARTICLE 3 - RESPONSIBILITIES OF CITY

- 3.1 City shall make available to Consultant information in City's possession that is relevant to the performance of Consultant's Services.
- 3.2 City will make provision for Consultant to enter upon City-owned property to perform the Services.
- 3.3 City designates Gary Van Dorst to act as its representative with respect to the Services.

ARTICLE 4 - PERIOD OF SERVICE

- 4.1 Consultant shall perform the Services in a prompt and diligent manner and in accordance with the schedule set forth in Attachment "B," entitled "Project Schedule."

ARTICLE 5 - PAYMENTS TO CONSULTANT

- 5.1 The total compensation for Consultant's performance of the Services shall not exceed the amount of \$28,037.5. City shall pay Consultant on a time and materials basis in accordance with the estimated amounts identified in Attachment "C" entitled "Project Fee," and based upon the hourly rates shown in Attachment "D," entitled "Rate Schedule."
- 5.2 Within ten days following the end of each month Consultant shall submit an invoice to City indicating the portion of the Services performed, who performed the Services and costs incurred. Payments by City to Consultant shall be made within 30 days after receipt and approval of Consultant's invoice, by warrant payable to Consultant.
- 5.3 All notices, bills and payments shall be made in writing and may be given by personal delivery or by mail. Notices, bills and payments sent by mail shall be addressed as follows:

City
Gary Van Dorst
Municipal Utilities Dept.
PO Box 3005
Redlands, CA 92373

Consultant
Scott Purdy, President, CEO
Vector Engineering, Inc.
143 E. Spring Hill Drive
Grass Valley, CA 95945

When so addressed, such notices shall be deemed given upon deposit in the United States Mail. Changes may be made in the names and addresses of the person to whom notices and payments are to be given by giving notice pursuant to this section.

ARTICLE 6 - INSURANCE AND INDEMNIFICATION

6.1 Consultant's Insurance to be Primary

All insurance required by this Agreement shall be maintained by Consultant during its performance of the Services and shall be primary with respect to City and non-contributing to any insurance or self-insurance maintained by City. Consultant shall not commence the Services unless and until all required insurance listed below is obtained by Consultant and Certificates of Insurance and endorsements evidencing such insurance are presented to City. All insurance policies shall include a provision prohibiting cancellation, except upon thirty (30) days prior written notice to City.

6.2 Workers' Compensation and Employer's Liability

- A. Consultant shall secure and maintain Workers' Compensation and Employer's Liability insurance throughout its performance of the Services in amounts which meet statutory requirements with an insurance carrier acceptable to City.
- B. Consultant expressly waives all rights to subrogation against City, its elected officials and employees for losses arising from work performed by Consultant for City by expressly waiving Consultant's immunity for injuries to Consultant's employees. Consultant agrees that its obligation to indemnify, defend and hold harmless provided for in this Agreement extends to any claim brought by or on behalf of any employee of Consultant. This waiver is mutually negotiated by the parties. To the extent any of the damages referenced herein were caused by or resulted from the concurrent negligence of City, its agents or employees, the obligations provided herein to indemnify, defend and hold harmless are valid and enforceable only to the extent of the negligence of Consultant, its officers, agents and employees.

6.3 Comprehensive General Liability Insurance. Consultant shall secure and maintain in force throughout its performance of the Services comprehensive general liability insurance with carriers acceptable to City. Minimum coverage of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate for public liability, property damage and personal injury is required. Consultant shall obtain an endorsement that City shall be named as an additional insured.

6.4 Professional Liability Insurance. Consultant shall secure and maintain professional liability insurance throughout its performance of the Services in the amount of one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) annual aggregate.

6.5 Business Auto Liability Insurance. Consultant shall have business auto liability coverage, with minimum limits of one million dollars (\$1,000,000) per occurrence, combined single

limit for bodily injury liability and property damage liability. This coverage shall include all Consultant-owned vehicles used in connection with its performance of the Services, hired and non-owned vehicles, and employee non-ownership vehicles. Consultant shall obtain an endorsement that City shall be named as an additional insured.

- 6.6 Assignment and Insurance Requirements. Consultant is expressly prohibited from assigning any of the Services without the prior written consent of City. In the event of mutual agreement between the parties to assign a portion of the Services, Consultant shall add the assignee as an additional insured to Consultant's insurance policies and provide City with insurance endorsements prior to any Services being performed by the assignee. Assignment does not include printing or other customary reimbursable expenses that may be provided in this Agreement.
- 6.7 Hold Harmless and Indemnification. Consultant shall defend, indemnify and hold harmless City, its elected officials, officers, employees and agents from and against any and all actions, claims, demands, lawsuits, losses and liability for damages to persons or property, including costs and attorney fees, that may be asserted or claimed by any person, firm, entity, corporation, political subdivision or other organization arising out of or in connection with Consultant's negligent and/or intentionally wrongful acts or omissions in performing the Services; but excluding such actions, claims, demands, lawsuits and liability for damages to persons or property arising from the sole negligence or intentionally wrongful acts of City, its officers, employees or agents.

ARTICLE 7 - GENERAL CONSIDERATIONS

- 7.1 In the event any action is commenced to enforce or interpret any of the terms or conditions of this Agreement the prevailing party shall, in addition to any costs and other relief, be entitled to the recovery of its reasonable attorneys' fees.
- 7.2 All documents, records, drawings, designs, cost estimates, electronic data files, databases and other documents developed by Consultant pursuant to this Agreement and any copyright interest in such documents shall become the property of City and shall be delivered to City upon completion of the Services, or upon the request of City. Any reuse of such documents and any use of incomplete documents will be at City's sole risk.
- 7.3 Consultant is for all purposes an independent contractor. Consultant shall supply all tools and instrumentalities required to perform the Services. All personnel employed by Consultant are for its account only, and in no event shall Consultant or any personnel retained by it be deemed to have been employed by City or engaged by City for the account of or on behalf of City.
- 7.4 Unless earlier terminated, as provided for below, this Agreement shall terminate upon completion and acceptance of the Services by City.

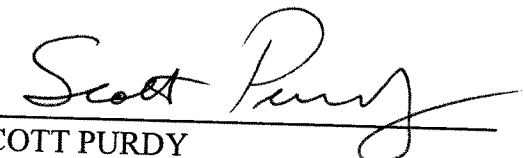
- 7.5 This Agreement may be terminated by the City, without cause, by providing five (5) days prior written notice to Consultant of intent to terminate.
- 7.6 If this Agreement is terminated by City, an adjustment to Consultant's compensation shall be made, but no amount shall be allowed for anticipated profit or unperformed Services, and any payment due Consultant at the time of termination may be adjusted to the extent of any additional costs to City occasioned by any default by Consultant.
- 7.7 Upon receipt of a termination notice, Consultant shall immediately discontinue all Services, and within five (5) days of the date of such notice, deliver or otherwise make available to City, copies (in both hard copy and electronic form, where applicable) of any data, design calculations, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by Consultant in performing the Services. Consultant shall be compensated on a pro-rata basis for work completed up until notice of termination.
- 7.8 Consultant shall maintain books and accounts of all payroll costs and expenses incurred in performing the Services. Such books shall be available at all reasonable times for examination by City at the office of Consultant.
- 7.9 This Agreement, including the attachments incorporated herein by reference, represents the entire agreement and understanding between the parties as to the matters contained herein, and any prior negotiations, written proposals or agreements with regard to the subject matter hereof between City and Consultant are superseded by this Agreement. Any amendment to this Agreement shall be in writing, approved by City Council of City and signed by City and Consultant.
- 7.10 This Agreement shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, duly authorized representatives of City and Consultant have signed in confirmation of this Agreement.

CITY OF REDLANDS

VECTOR ENGINEERING, INC.

By: 
SUSAN PEPLER
Mayor

By: 
SCOTT PURDY
President

ATTEST:


City Clerk, City of Redlands

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**ATTACHMENT A
SCOPE OF WORK**

ATTACHMENT A – SCOPE OF WORK

Task A: Additional Construction Quality Assurance Services

Task A consisted of providing additional CQA services during the monolithic cover construction on the East Side Landfill, the construction of the Phase 1 expansion, and the placement of the fill soils and drainage structures within the consolidation area. The construction of the Phase 1 expansion at the California Street Landfill exceeded the prescribed working days for completion. In Vector Engineering, Inc.'s (Vector's) initial estimate for CQA services, we proposed a working period of 17 weeks with two monitors working 60 hours per week. This period was exceeded by two weeks and Vector was required to provide CQA services at all times that the Contractor was working on-site.

In addition to the extended working period, we also conducted remolded and drive tube permeability testing of the clay liner in excess of our proposed quantities. This extra testing was the result of the installation of two test pads and failed production liner tests. During the extended work period, Vector observed all construction activities, performed field and laboratory testing and analyses of the monolithic cover and composite liner, and documented compliance with the approved plans and specifications.

Vector provided full-time CQA Monitors experienced with earthworks and geosynthetics construction. In accordance to California State Law, Vector's CQA Monitors were paid at the prevailing wage rate in accordance with our previously approved fees. Following completion of the construction, Vector prepared a CQA documentation report, which was submitted to the City and regulatory agencies.

Deliverables: CQA Documentation, Daily Reports, and Test Data

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**ATTACHMENT B
PROJECT SCHEDULE**

ATTACHMENT B - PROJECT SCHEDULE

Task A – Additional Construction Quality Assurance Services

The construction period for the CQA services was assumed to be 17 weeks. The actual construction period lasted a total of 19 weeks. Vector provided services at all times when the Contractor was on-site. Since the construction time differed from the estimated 17 weeks, Vector adjusted its time accordingly with authorization by City staff.

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**ATTACHMENT C
PROJECT FEE**

ATTACHMENT C - COST ESTIMATE

SUMMARY OF PROFESSIONAL SERVICES - VECTOR ENGINEERING, INC

Phase 1 Expansion Additional CQA Costs

	<i>Budgeted</i>		<i>Previous</i>		<i>Current</i>		<i>Remaining</i>	
	Hours	Costs	Hours	Costs	Hours	Costs	Hours	Costs
Task A - Additional CQA Field Services (2 weeks)								
Scott Purdy - CEG \$100/hr	95.25	\$ 9,525.00	0	\$ -	95.25	\$ 9,525.00	0	\$ -
Ramey/Fritzler \$90/hr	75.25	\$ 6,772.50	0	\$ -	75.25	\$ 6,772.50	0	\$ -
Dodge \$65/hr	16	\$ 1,040.00	0	\$ -	16	\$ 1,040.00	0	\$ -
Dermer/Wilson \$40/hr	32	\$ 1,280.00	0	\$ -	32	\$ 1,280.00	0	\$ -
Lead CQA Monitor/CM - \$67/hr (regular time) 17 weeks	80	\$ 5,360.00	0	\$ -	80	\$ 5,360.00	0	\$ -
Lead CQA Monitor/CM - \$90/hr (overtime) 4 hours/day	16	\$ 1,440.00	0	\$ -	16	\$ 1,440.00	0	\$ -
Laboratory Trailer w/ Soils Equipment (\$185/week)	2	\$ 370.00	0	\$ -	2	\$ 370.00	0	\$ -
Per Diem - CQA Monitors (\$525/week)	2	\$ 1,050.00	0	\$ -	2	\$ 1,050.00	0	\$ -
On-Site Vehicle (\$250/week)	2	\$ 500.00	0	\$ -	2	\$ 500.00	0	\$ -
Nuclear Density Gauge (\$150/week)	2	\$ 300.00	0	\$ -	2	\$ 300.00	0	\$ -
Misc. Field Equipment (\$100/week)	2	\$ 200.00	0	\$ -	2	\$ 200.00	0	\$ -
Field Computer (\$50/week)	2	\$ 100.00	0	\$ -	2	\$ 100.00	0	\$ -
Phone/FAX/Postage (\$50/week)	2	\$ 100.00	0	\$ -	2	\$ 100.00	0	\$ -
Total Additional Phase 1 CQA Costs	328.5	\$ 28,037.50	0	\$ -	328.5	\$ 28,037.50	0	\$ -

Note: The hours listed for Scott Purdy includes two weeks of additional construction quality assurance (CQA) and certification, additional hours for preparing the final CQA Report and testing.

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**ATTACHMENT D
RATE SCHEDULE**

ATTACHMENT D – FEE SCHEDULE

The unit rates for personnel will be provided under the following categories and individuals.

Principal Professional (Purdy/Suryasmita/Thiel) - \$100/hour

Senior Professional (Ramey/Woodward/Christie/Fritzler) - \$90/hour

Project Professional (Russell/Campbell) - \$75/hour

Staff Professional (Dodge/Hemmen/Beck/Anderson) - \$65/hour

CQA Monitor (B. Dell-Era/Harris/Glass/Wofford/Olhoffer) - \$67/hour, \$90/hour ot

Clerk (Dermer/M. Dell-Era/Butler) - \$40/hour