


COMMUNITY VISION IMPLEMENTATION

Our vision is to insure safe and compliant gasoline dispensing facilities to assist in providing excellent service for a high quality of life, as outlined in the City of Garden Grove's Strategic Plan.

RECOMMENDATION

It is recommended that City Council:

- Award the contract to the lowest qualified bidder, Fleming Environmental, Inc. to perform the mandated EVR improvements to the City's three (3) fueling sites in the amount of \$114,280.00.
- Authorize the City Manager and City Clerk to sign and execute the agreement on behalf of the City.


KEITH G. JONES
Director of Public Works

By: 
Phillip Carter
Public Works Supervisor

Recommended for Approval


Matthew Feral
City Manager

Attachment: Fleming Environmental Contract

SECTION 4 - AGREEMENT**PROJECT AGREEMENT**

THIS AGREEMENT is made this ____ day of _____, 2009 by the CITY OF GARDEN GROVE, a municipal corporation, ("CITY"), and **Fleming Environmental, Inc.**, hereinafter referred to as ("CONTRACTOR").

RECITALS:

The following recitals are a substantive part of this Agreement:

This Agreement is entered into pursuant to Garden Grove COUNCIL

AUTHORIZATION, DATED _____.

CITY desires to utilize the services of CONTRACTOR to Furnish all Labor, Materials, Tools, and Equipment for Phase II EVR (Enhanced Vapor Recovery) II Upgrade Project at Garden Grove Municipal Service Center and Police Fire Facility.

CONTRACTOR is qualified by virtue of experience, training, education, and expertise to accomplish services.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

- 4.0 **Compensation.** CONTRACTOR shall be compensated as follows:
 Compensation under this agreement shall be a Firm Fixed Price (FFP) in the amount of One Hundred Fourteen Thousand Two Hundred Eighty Dollars (\$114,280.00) payable in arrears. Payment for work under this Agreement shall be made per invoice for work completed. All work shall be in accordance with Bid No. S-1036 and the Technical Specification (Attachment "A").
- 4.1 **General Conditions.** CONTRACTOR certifies and agrees that all the terms, conditions and obligations of the Contract Documents as hereinafter defined, the location of the job site, and the conditions under which the work is to be performed have been thoroughly reviewed, and enters into this Contract based upon CONTRACTOR'S investigation of all such matters and is in no way relying upon any opinions or representations of CITY. It is agreed that this Contract represents the entire agreement. It is further agreed that the Contract Documents including the Notice Inviting Bids, Special Instructions to Bidders, if any, and Contractor's Proposal, are incorporated in this Contract by reference, with the same force and effect as if the same were set forth at length

herein, and that CONTRACTOR and its subcontractors, if any, will be and are bound by any and all of said Contract Documents insofar as they relate in any part or in any way, directly or indirectly, to the work covered by this Contract.

"Project" as used herein defines the entire scope of the work covered by all the Contract Documents. Anything mentioned in the Specifications and not indicated in the Plans, or indicated in the Plans and not mentioned in the Specifications, shall be of like effect as if indicated and mentioned in both. In case of discrepancy in the Plans or Specifications, the matter shall be immediately submitted to City's Engineer, without whose decision CONTRACTOR shall not adjust said discrepancy save only at CONTRACTOR'S own risk and expense. The decision of the Engineer shall be final.

- 4.2 Materials and Labor.** CONTRACTOR shall furnish, under the conditions expressed in the Plans and Specifications, at CONTRACTOR'S own expense, all labor and materials necessary, except such as are mentioned in the Specifications to be furnished by the CITY, to complete the project, in good workmanlike and substantial order. If CONTRACTOR fails to pay for labor or materials when due, CITY may settle such claims by making demand upon the surety to this Agreement. In the event of the failure of refusal of the surety to satisfy said claims, CITY may settle them directly and deduct the amount of payments from the Contract price and any amounts due to CONTRACTOR. In the event CITY receives a stop notice from any laborer or material supplier alleging non-payment by CONTRACTOR, CITY shall be entitled to deduct all of its costs and expenses incurred relating thereto, including but not limited to administrative and legal fees.
- 4.3 Project.** The PROJECT is described as: Furnish all Labor, Materials, Tools, and Equipment for Phase II EVR Upgrade Project at Garden Grove Municipal Service Center and Police Fire Facility.
- 4.4 Plans and Specifications.** The work to be done is described in a set of detailed Plans and Specifications entitled: Furnish all Labor, Materials, Tools, and Equipment for Phase II EVR Upgrade Project at Garden Grove Municipal Service Center and Police Fire Facility. Said Plans and Specifications and any revisions, amendments or addenda thereto are attached hereto and incorporated herein as part of this Contract and referred to by reference. The work to be done must also be in accordance with the General Provisions, Standard Specifications and Standard Plans of City which are also incorporated herein and referred to by reference.
- 4.5 Time of Commencement and Completion.** CONTRACTOR agrees to commence the Project with TEN (10) calendar days from the date set forth in the "Notice to Proceed" sent by City and shall diligently prosecute

the work to completion within 45 (forty five) calendar days total, from commencement of work excluding delays caused or authorized by the CITY as set forth in Sections 4.7, 4.8 and 4.9 hereof. The completion dates shall include any material delivery.

4.6 Time is of the Essence. Time is of the essence of this Contract. As required by the Contract Documents, CONTRACTOR shall prepare and obtain approval of all shop drawings, details and samples, and do all other things necessary and incidental to the prosecution of CONTRACTOR'S work in conformance with an approved construction progress schedule. CONTRACTOR shall coordinate the work

covered by this Contract with that of all other contractors, subcontractors and of the CITY, in a manner that will facilitate the efficient completion of the entire work in accordance with Section 4.5 herein. CITY shall have complete control of the premises on which the work is to be performed and shall have the right to decide the time or order in which the various portions of the work shall be installed or the priority of the work of other subcontractors, and, in general, all matters representing the timely and orderly conduct of the work of CONTRACTOR on the premises.

4.7 Excusable Delays. CONTRACTOR shall be excused for any delay in the prosecution or completion of the Project caused by acts of God; inclement weather; damages caused by fire or other casualty for which CONTRACTOR is not responsible; and act, neglect or default of CITY; failure of CITY to make timely payments to CONTRACTOR; late delivery of materials required by this CONTRACT to be furnished by CITY; combined action of the workers in no way caused by or resulting from default or collusion on the part of CONTRACTOR; a lockout by CITY; or any other delays unforeseen by CONTRACTOR and beyond CONTRACTOR'S reasonable control.

City shall extend the time fixed in Section 4.5 herein for completion of the Project by the number of days CONTRACTOR has thus been delayed, provided that CONTRACTOR presents a written request to CITY for such time extension within fifteen (15) days of the commencement of such delay and CITY finds that the delay is justified. CITY'S decision will be conclusive on the parties to this Contract. Failure to file such request within the time allowed shall be deemed a waiver of the claim by CONTRACTOR.

No claims by CONTRACTOR for additional compensation or damages for delays will be allowed unless CONTRACTOR satisfies CITY that such delays were unavoidable and not the result of any action or inaction of CONTRACTOR and that CONTRACTOR took all available measures to mitigate such damages. Extensions of time and extra compensation as a result of incurring undisclosed utilities will be determined in accordance with Section 9-103A of the State of California Department of

Transportation Standard Specifications. The CITY'S decision will be conclusive on all parties to this Contract.

4.8 Extra Work. The Contract price includes compensation for all work performed by CONTRACTOR, unless CONTRACTOR obtains a written change order signed by a designated representative of CITY specifying the exact nature of the extra work and the amount of extra compensation to be paid all as more particularly set forth in Section 4.9 hereof. CITY shall extend the time fixed in Section 4.5 for completion of the Project by the number of days reasonably required for CONTRACTOR to perform the extra work, as determined by CITY'S Engineer. The decision of the Engineer shall be final.

4.9 Changes in Project.

4.9.1 CITY may at any time, without notice to any surety, by written order designated or indicated to be a change order, make any change in the work within the general scope of the Contract, including but not limited to changes:

- a. in the Specifications (including drawings and designs);
- b. in the time, method or manner of performance of the work;
- c. in the City-furnished facilities, equipment, materials, services or site; or
- d. directing acceleration in the performance of the work.

4.9.2 A change order shall also be any other written order (including direction, instruction, interpretation or determination) from the CITY which causes any change, provided CONTRACTOR gives the CITY written notice stating the date, circumstances and source of the order and that CONTRACTOR regards the order as a change order.

4.9.3 Except as provided in this Section 4.9, no order, statement or conduct of the CITY or its representatives shall be treated as a change under this Section 9 or entitle CONTRACTOR to an equitable adjustment.

4.9.4 If any change under this Section 4.9 causes an increase or decrease in CONTRACTOR'S actual, direct cost or the time required to perform any part of the work under this Contract, whether or not changed by any order, the CITY shall make an equitable adjustment and modify the Contract in writing. Except for claims based on defective specifications, no claim for any change under paragraph (4.9.2) above shall be allowed for any costs incurred more than 20 days before the CONTRACTOR gives written notice as required in paragraph (4.9.2). In the case of

defective specifications for which the CITY is responsible, the equitable adjustment shall include any increased direct cost CONTRACTOR reasonably incurred in attempting to comply with those defective specifications.

4.9.5 If CONTRACTOR intends to assert a claim for an equitable adjustment under this Section 4.9, it must, within thirty (30) days after receipt of a written change order under paragraph (4.9.1) or the furnishing of a written notice under paragraph (4.9.2), submit a written statement to the CITY setting forth the general nature and monetary extent of such claim. The CITY may extend the 30-day period. CONTRACTOR may include the statement of claim in the notice under paragraph (4.9.2) of this Section 4.9.

4.9.6 No claim by CONTRACTOR for an equitable adjustment shall be allowed if made after final payment under this Agreement.

4.9.7 CONTRACTOR hereby agrees to make any and all changes, furnish the materials and perform the work that CITY may require without nullifying this Contract. CONTRACTOR shall adhere strictly to the Plans and Specifications unless a change there from is authorized in writing by the CITY. Under no condition shall CONTRACTOR make any changes to the Project, either in additions or deduction, without the written order of the CITY and the CITY shall not pay for any extra charges made by CONTRACTOR that have not been agreed upon in advance in writing by the CITY. CONTRACTOR shall submit immediately to the CITY written copies of its firm's cost or credit proposal for change in the work. Disputed work shall be performed as ordered in writing by the CITY and the proper cost or credit breakdowns therefore shall be submitted without delay by CONTRACTOR to CITY.

4.10 Liquidated Damages for Delay. The parties agree that if the total work called for under this Contract, in all parts and requirements, is not completed within the time specified in Section 4.5 herein, plus the allowance made for delays or extensions authorized under Section 4.7, 4.8 and 4.9 herein, the CITY will sustain damage which would be extremely difficult and impractical to ascertain. The parties therefore agree that CONTRACTOR will pay to CITY the sum of two hundred and fifty dollars (\$250.00) per day for each and every calendar day during which completion of the Project is so delayed. CONTRACTOR agrees to pay such liquidated damages and further agrees that CITY may offset the amount of liquidated damages from any moneys due or that may become due CONTRACTOR under the Contract.

4.11 Contract Price and Method of Payment. CITY agrees to pay and the CONTRACTOR agrees to accept as full consideration for the faithful performance of this Contract, subject to any subsequent additions or deductions as provided in approved change orders, the sum as itemized in the bid proposal.

Progress payments shall be made to the CONTRACTOR per month for each successive month as the work progresses. The CONTRACTOR shall be paid such sum as will bring the total payments received since the commencement of the work up to ninety percent (90%) of the value of the work completed, less all previous payments, provided that the CONTRACTOR submits the request for payment prior to the end of the day required to meet the payment schedule. The CITY will retain ten percent (10%) of the amount of each such progress estimate and material cost until 30 days after the recordation of the Notice of Completion.

Payments shall be made on demands drawn in the manner required by law, accompanied by a certificate signed by the CITY'S Engineer, stating that the work for which payment is demanded has been performed in accordance with the terms of the Contract. Partial payments of the Contract price shall not be considered as an acceptance of any part of the work.

4.12 Substitution of Securities in Lieu of Retention of Funds. Pursuant to California Public Works Contract Code Section 22300, the CONTRACTOR will be entitled to post approved securities with the CITY or an approved financial institution in order to have the CITY release funds retained by the CITY to ensure performance of the Contract. CONTRACTOR shall be required to execute an addendum to this Contract together with escrow instructions and any other documents in order to effect this substitution.

4.13 Completion. CITY may require affidavits or certificates of payment and/or releases from any subcontractor, laborer or material supplier in connection with Stop Notices which have been filed under the provisions of the statutes of the State of California.

4.14 Contractor's Employee Compensation.

4.14.1 General Prevailing Rate. CITY has ascertained from the State of California Director of Industrial Relations, the general prevailing rate of per diem wages and the general prevailing rate for legal holiday and over time work in the locality in which the work is to be performed for each craft or type of work needed to execute this Contract, and copies of the same are on file in the Office of the City Engineer. The CONTRACTOR agrees that not less than said prevailing rates shall be paid to workers employed

on this public works contract as required by Labor Code Section 1774 of the State of California.

- 4.14.2 Forfeiture for Violation.** CONTRACTOR shall, as a penalty to the CITY, forfeit fifty dollars (\$50.00) for each calendar day or portion thereof for each worker paid (either by the CONTRACTOR or any subcontractor under it) less than the prevailing rate of per diem wages as set by the Director of Industrial Relations, in accordance with Sections 1770-1780 of the California Labor Code for the work provided for in this Contract, all in accordance with Section 1775 of the Labor Code of the State of California.
- 4.14.3 Travel and Subsistence Pay.** Section 1773.8 of the Labor Code of the State of California, regarding the payment of travel and subsistence payments, is applicable to this Contract and CONTRACTOR shall comply therewith.
- 4.14.4 Apprentices.** Section 1777.5, 1777.6 and 1777.7 of the Labor Code of the State of California, regarding the employment of apprentices is applicable to this Contract and the CONTRACTOR shall comply therewith if the prime contract involves thirty thousand dollars (\$30,000.00) or more or twenty (20) working days, or more; or if contracts of specialty contractors not bidding for work through the general or prime contractor are two thousand dollars (\$2,000.00) or more for five (5) working days or more.
- 4.14.5 Workday.** In the performance of this Contract, not more than eight (8) hours shall constitute a day's work, and CONTRACTOR shall not require more than eight (8) hours of labor in a day from any person employed by him there under except as provided in paragraph (4.14.2) above. CONTRACTOR shall conform to Article 3, Chapter 1, Part 7 (Sections 1810 et sep.) of the Labor Code of the State of California and shall forfeit to the CITY as a penalty, the sum of twenty-five dollars (\$25.00) for each worker employed in the execution of this Contract by CONTRACTOR or nay subcontractor for each calendar day during which any worker is required or permitted to labor more than eight (8) hours in any one calendar day and forty (40) hours in any one week in violation of said Article. CONTRACTOR shall keep an accurate record showing the name and actual hours worked each calendar day and each calendar week by each worker employed by CONTRACTOR in connection with the Project.
- 4.14.6 Records of wages: Inspection.** CONTRACTOR agrees to maintain accurate payroll records showing the name, address, social security number, work classification, straight-time and overtime hours worked each day and week; and the actual per

diem wages paid to each journeyman, apprentice, worker or other employee employed by it in connection with the Project and agrees to require that each of its subcontractors does the same. All payroll records shall be certified as accurate by the applicable contractor or subcontractor or its agent have authority over such matters. CONTRACTOR further agrees that its payroll records and those of its subcontractors shall be available to the employee or employee's representative, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards and shall comply with all the provisions of Labor Code Section 1776, in general.

4.15 Surety Bonds. CONTRACTOR shall, upon entering into performance of this Agreement, furnish bonds in the amount of one hundred percent (100%) of the Contract price bid, to guarantee the faithful performance of the work, and the other in the amount of one hundred percent (100%) of the Contract price bid to guarantee payment of all claims for labor and materials furnished. This Contract shall not become effective until such bonds are supplied to and approved by the CITY. The Surety Company must have an AM Best rating of A- VII or better.

4.16 Insurance.

4.16.1 CONTRACTOR is also aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or undertake self-insurance with provisions of that Code and will comply with such provisions before commencing the performance of the work of this Contract.

4.16.2 CONTRACTOR and all subcontractors will carry workers' compensation insurance for the protection of its employees during the progress of the work. The insurer shall waive its rights of subrogation against the CITY, its officers, agents and employees and shall issue an endorsement to the policy evidencing same.

4.16.3 CONTRACTOR shall at all times carry, for all operations hereunder policies of insurance for: (1) bodily injury, including death, and property damage liability insurance; (2) auto liability including mobile equipment if any, for bodily injury and property damage coverage; (3) and builders' all risk insurance. All insurance coverage shall be in amounts specified by CITY in Section 4.16.4 Insurance Requirements. CONTRACTOR shall provide evidence of insurance coverage by the issuance of a certificate of insurance and endorsements in a form prescribed by the CITY. Policies shall be underwritten by insurance companies satisfactory to CITY for all

operations, subcontract work, contractual obligations, on-going, products and completed operations, all hired, leased, owned and non-owned vehicles., and mobile equipment if any. Said insurance coverage obtained by the CONTRACTOR, excepting workers' compensation coverage, shall name the CITY, its Officers, Agents, Employees, Engineers, and Consultants for this Contract, and all public agencies from whom permits will be obtained and their Directors, Officers, Agents and Employees, as determined by the CITY, as additional insured on said policies.

For any claims related to this Agreement, CONTRACTOR'S insurance coverage shall be primary insurance as respects CITY, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, or volunteers shall by excess of the CONTRACTOR'S insurance and shall not contribute with it

4.16.4 Before CONTRACTOR performs any work at, or prepares or delivers materials to, the site of construction, CONTRACTOR shall furnish certificates of insurance and endorsements evidencing the foregoing insurance coverage and such certificates of insurance and endorsements shall provide the name and policy number of each carrier and that the insurance is in force and will not be canceled without thirty (30) days written notice to the CITY. CONTRACTOR shall maintain all of the foregoing insurance coverage in force until the work under this Contract is satisfactorily and fully completed. The requirement for carrying the foregoing insurance shall not derogate from the provisions for indemnification of CITY by Contractor under Section 4.17 of this Contract. Notwithstanding nor diminishing the obligations of CONTRACTOR with respect to the foregoing, CONTRACTOR shall subscribe for and maintain in full force and effect during the life of this Contract, the following insurance in amounts not less than the amounts specified and issued by a company having a Best's Guide Rate of A-Class VII or better (claims made and modified occurrence policies are not acceptable):

-Workers' Compensation	In accordance with the Workers' Compensation Act of the State of California.
-Commercial General Liability including mobile equipment, if any, written on a per occurrence basis: (Claims made and modified policies are not acceptable)	\$2,000,000 per occurrence, if any,
-Automobile Liability including all owned, non-owned, leased, hired and mobile equipment, if any, written on a per occurrence basis	\$2,000,000 combined single limit
-Environmental and Pollution Coverage -Including remediation and clean-up costs	\$1,000,000 per occurrence

CITY or its representatives shall at all times have the right to inspect and receive the original or a certified copy of all said policies of insurance, including certificates of insurance and endorsements. CONTRACTOR shall pay all of the premiums on the insurance hereinabove and is required to maintain such insurance coverage during the term of the contract.

4.17 Risk and Indemnification. All work covered by this Contract done at the site of the Project or in preparing or delivering materials to the site shall be at the risk of CONTRACTOR alone. CONTRACTOR agrees to save, indemnify and keep CITY, its Officers, Agents, Employees, Engineers, and Consultants for this Contract, and all public agencies from whom permits will be obtained and their directors, Officers, Agents and Employees harmless against any and all liability, claims, judgments, costs and demands, including demands arising from injuries or death of persons (CONTRACTOR'S employees included) and damage to property, arising directly or indirectly out of the obligations herein undertaken or out of the operations conducted by CONTRACTOR, save and except claims or litigation arising through the sole negligence or sole willful misconduct of CITY and will make good to reimburse CITY for any expenditures, including reasonable attorneys' fees CITY may incur by reason of such matters, and if requested by CITY, will defend any such suits at the sole cost and expense of CONTRACTOR.

4.18 Termination.

4.18.1 This Contract may be terminated in whole or in part in writing by the CITY for its convenience, provided that the CONTRACTOR is given (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (2) an opportunity for consultation with the terminating party prior to termination. Termination of contract shall conform to Section 8-1.11 of the State of California, Department of Transportation Standard Specifications.

4.18.2 If termination for default or convenience is effected by the CITY, an equitable adjustment in the price provided for in this Contract shall be made, but (1) no amount shall be allowed for anticipated profit on unperformed services or other work, and (2) any payment due to the CONTRACTOR at the time of termination may be adjusted to cover any additional costs to the CITY because of the CONTRACTOR'S default. The equitable adjustment for any termination shall provide for payment to the CONTRACTOR for services rendered and expenses incurred in accordance with section 8-1.11 of the State of California, Department of Transportation Standard Specifications.

4.18.3 Upon receipt of a termination action under paragraph (4.18.1) or (4.18.2) above, the CONTRACTOR shall (1) promptly discontinue all affected work (unless the notice directs otherwise), and (2) deliver or otherwise make available to the CITY all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the CONTRACTOR in performing this Contract whether completed or in process.

4.18.4 Upon termination under paragraphs (4.18.1) and (4.18.2) above, the CITY may take over the work and may award another party an agreement to complete the work under this Contract.

4.19 Warranty. The CONTRACTOR agrees to perform all work under this Contract in accordance with the CITY'S designs, drawings and specifications.

The CONTRACTOR guarantees for a period of one (1) year from the date of the notice of completion of the work that the completed work is free from all defects due to faulty materials, equipment or workmanship and that he shall promptly make whatever adjustments or corrections which may be necessary to cure any defects, including repairs or any damage to other parts of the system resulting from such defects. The CITY shall promptly give notice to the CONTRACTOR of observed defects. In the event that the CONTRACTOR fails to make adjustments, repairs,

corrections or other work made necessary by such defects, the CITY may do so and charge the CONTRACTOR the cost incurred. The performance bond shall remain in full force and effect through the guarantee period.

The CONTRACTOR'S obligations under this clause are in addition to the CONTRACTOR'S other express or implied assurances provided under this Contract and in no way diminish any other rights that the CITY may have against the CONTRACTOR for faulty materials, equipment or work.

4.20 Notices. Any notice required or permitted under this Contract may be given by ordinary mail at the address set forth below. Any party whose address changes shall notify the other party in writing.

To:

a. (CONTRACTOR)
Fleming Environmental, Inc.
ATTENTION: TERRY L. FLEMING, JR., PRESIDENT
6130 Valley View Street
Buena Park, CA 90620

b. (Address of City Purchasing) (with a copy to):

City of Garden Grove 11222 Acacia Parkway Garden Grove, CA 92840	Garden Grove City Attorney 11222 Acacia Parkway Garden Grove, CA 92840
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4.21. Payment of Taxes: The contract prices paid for the work shall include full compensation for all taxes which CONTRACTOR is required to pay, whether imposed by Federal, State or local government.

4.22 Safety Provisions: CONTRACTOR shall conform to the rules and regulations established by the California Division of Industrial Safety.

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(Contract Signature Block On Next Page)

IN WITNESS THEREOF, these parties have executed this Project Agreement on the day and year shown below.

Date: _____

"CITY"
CITY OF GARDEN GROVE

By: _____
City Manager

ATTEST:

City Clerk

Date: _____

"CONTRACTOR"
Fleming Environmental, Inc.

Contractor's State Lic. No. 746017

Expiration Date. 2/28/2010

By:  _____

Title: Terry L. Fleming Jr., President

Date: December 17, 2008

Tax ID No. 33-0791479

If CONTRACTOR is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to the CITY.

APPROVED AS TO FORM:



Garden Grove City Attorney

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

State of California }
County of Orange

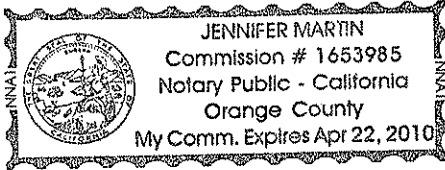
On 12/17/08 before me, Jennifer Martin, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Terry L. Fleming, Jr.
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signatures(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Place Notary Seal Above

Signature Jennifer Martin
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

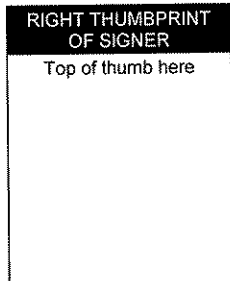
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: Terry L. Fleming, Jr.

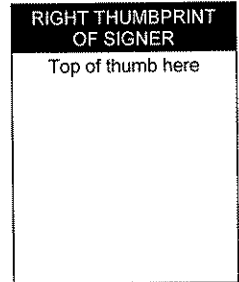
- Individual
- Corporate Officer – Title(s): President
- Partner
 - Limited
 - General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer is Representing: Fleming Environmental Inc.

Signer's Name: _____

- Individual
- Corporate Officer – Title(s): _____
- Partner
 - Limited
 - General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer is Representing: _____

ADDENDUM No. 1

Covering

CHANGE IN SPECIFICATIONS AND/OR PLANS

Date Issued: November 3, 2008

Date Effective: November 3, 2008

IFB No. S-1036

Contract: Furnish all Labor, Materials, Tools, and Equipment for Phase II
EVR Upgrade Project at Garden Grove Municipal Service Center
and Police Fire Facility.

INTENT

1. This addendum is issued prior to receipt of bids to provide for modifications in plans and/or specifications. Acknowledgment of this addendum shall be made and cost for work included in bidder's submittal.
2. Page 2, Mandatory Pre-Bid Meeting and Site Walk Time, Revise item as follows:

The Mandatory Pre-Bid Meeting and Site Walk is hereby changed from 10:00 a.m., Wednesday, November 12, 2008 to a new Time of **9:00 a.m., Wednesday, November 12, 2008.**

3. The contractor is hereby notified that Addendum No. 1 must be acknowledged and submitted as part of the bid. Failure to do so could result in the City designating said bid as "Non Responsive". All the terms and conditions of the BID shall remain the same.

Issued by:

Sandra Segawa
Purchasing Agent

ADDENDUM No. 2

Covering

CHANGE IN SPECIFICATIONS AND/OR PLANS

Date Issued: November 17, 2008

Date Effective: November 17, 2008

IFB No. S-1036

Contract: Furnish all Labor, Materials, Tools, and Equipment for Phase II EVR Upgrade Project at Garden Grove Municipal Service Center and Police Fire Facility.

INTENT

1. This addendum is issued prior to receipt of bids to provide for modifications in plans and/or specifications. Acknowledgment of this addendum shall be made and cost for work included in bidder's submittal.
2. Page 25-26, Scope of Work: is hereby removed and replaced with the new and revised Scope of Work, Pages 25-26, which is attached to this addendum.
3. The contractor is hereby notified that Addendums No. 1 and 2 must be acknowledged and submitted as part of the bid. Failure to do so could result in the City designating said bid as "Non Responsive". All the terms and conditions of the BID shall remain the same.

Issued by:

Sandra Segawa
Purchasing Agent

ATTACHMENT "A"
SCOPE OF WORK (REVISED)
IFB NO. S-1036

**Furnish all Labor, Materials, Tools, and Equipment for Phase II EVR
Phase II Upgrade Project at Garden Grove Municipal Service Center
and Police Fire Facility**

The City of Garden Grove solicits firm, fixed-price proposals from qualified contractors to participate in the EVR Phase II Upgrade Project.

The project consists of upgrading three (3) UST sites to meet the requirements of Phase II of the California Enhanced Vapor Recovery Program. The sites shall be retrofitted with Veeder-Root Carbon Pressure Management Systems and associated hanging hardware, electrical wiring and plumbing. After installation is complete, the sites shall undergo the appropriate testing as required by State and local code.

It shall be the responsibility of the contractor to modify and test existing UST systems in accordance with ALL Federal State Regional and Municipal codes and regulations. In the event of conflict between this contract's Scope of Work and code, the code shall prevail.

SITE DESCRIPTIONS:

Site #1- 13802 Newhope St. Garden Grove, CA 92843

This site maintains two (2) Under Ground Storage Tanks (UST) and consists of the following major components:

West Site: UST #1

- Two (2) Gasboy, dual-hose gasoline product dispensers
- One 20,000-gallon double walled fiberglass gasoline UST. (In tank turbine pressure type system)
- One Gasboy fuel management console
- One Veeder Root TLS350-based leak monitoring system

The Retrofit of this site includes the following:

- Furnish, install and test one (1) Veeder-Root Carbon Pressure Management System. System is to include Carbon Canister, 7-Input Smart Sensor Module, Software Upgrade Kit, Vapor Pressure Sensor Kit, Dual Port Interface Module and all other necessary components.
- Furnish and install all necessary VST EVR Phase II hanging hardware, wiring, hoses, breakaways and nozzles.

ATTACHMENT "A"
SCOPE OF WORK (REVISED)

- Schedule and perform all appropriate permit testing as required by State and local code.

East site: UST #2

- One (1) Gasboy single-hose gasoline product dispenser
- One (1) 12,000-gallon split, double-walled fiberglass UST, 6000 gallons gasoline and 6000 gallons diesel. (In-tank turbine type system)
- One Gasboy fuel management console
- One Veeder Root TLS350-based, leak monitoring system

The Retrofit of this site includes the following:

- Furnish, install and test one (1) Veeder-Root Carbon Pressure Management System. System is to include Carbon Canister, 7-Input Smart Sensor Module, Software Upgrade Kit, Vapor Pressure Sensor Kit, Dual Port Interface Module and all other necessary components.
- Furnish and install all necessary VST EVR Phase II hanging hardware, wiring, hoses, breakaways and nozzles.
- Schedule and perform all appropriate permit testing as required by State and local code.

Site #2- 11301 Acacia St. Garden Grove, CA 92840

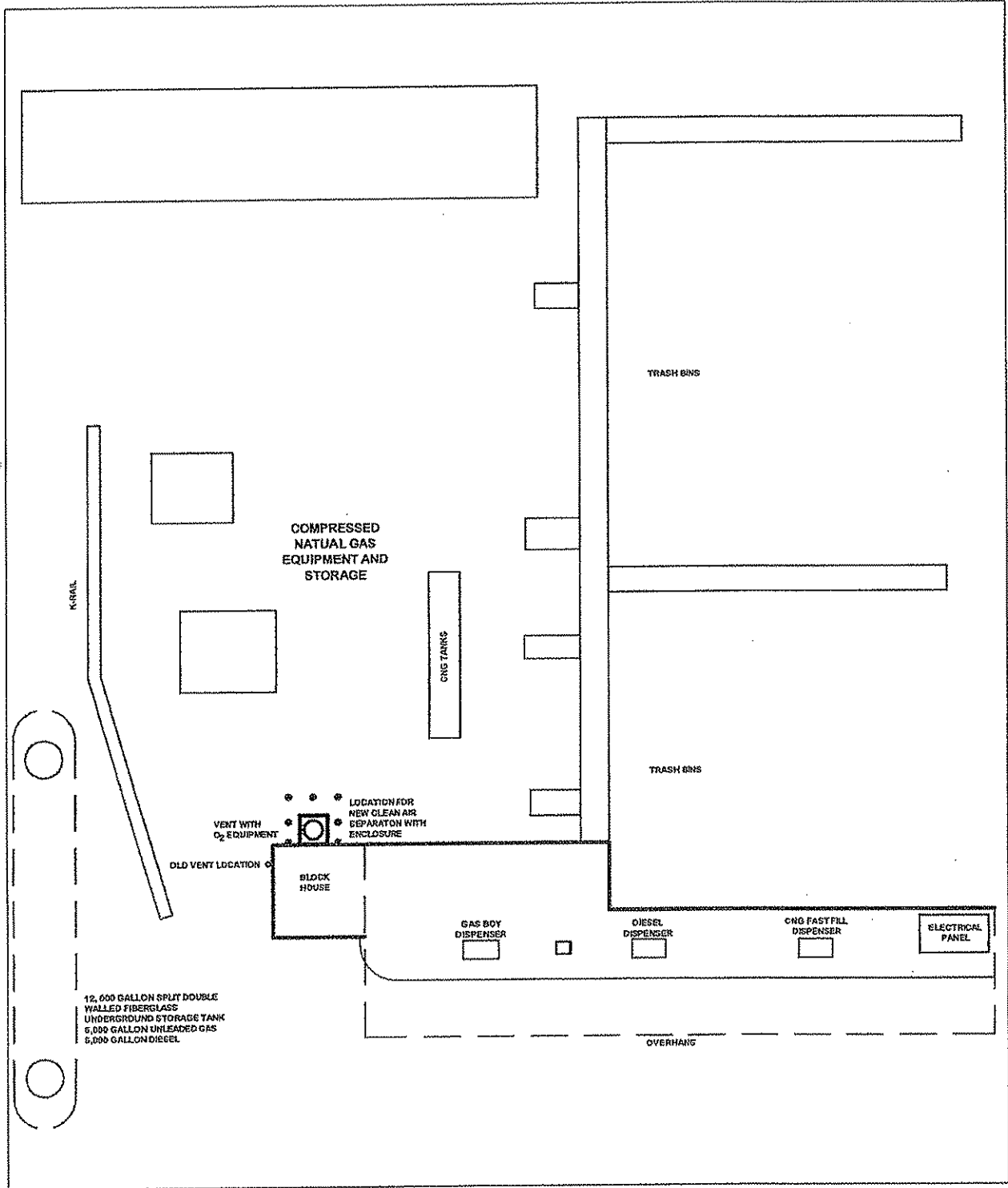
This site maintains one (1) UST and consists of the following major components:

- Two (2) Gasboy, dual-hose gasoline product dispensers
- One (1) 12,000-gallon, split double walled fiberglass UST 8000 gallons gasoline and 2000 gallons diesel. (In tank turbine type system)
- One Gasboy fuel management console
- One Veeder-Root TLS350-based, leak monitoring system

The Retrofit of this site includes the following:

- Furnish, install and test one (1) Veeder-Root Carbon Pressure Management System. System is to include Carbon Canister, 7-Input Smart Sensor Module, Software Upgrade Kit, Vapor Pressure Sensor Kit, Dual Port Interface Module and all other necessary components.
- Furnish and install all necessary VST EVR Phase II hanging hardware, wiring, hoses, breakaways and nozzles.
- Schedule and perform all appropriate permit testing as required by State and local code.

ATTACHMENT "A"



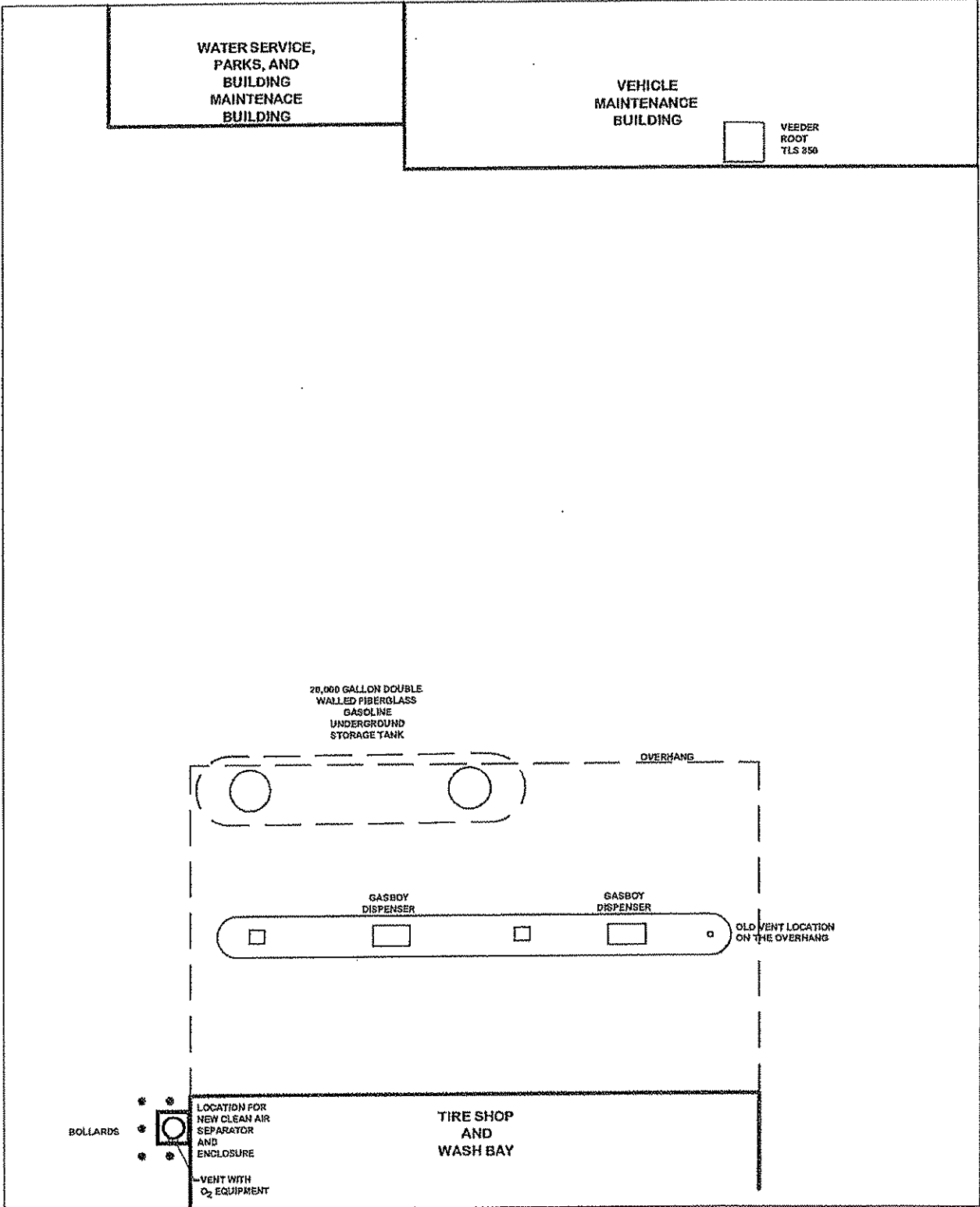
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City Of Garden Grove
Department Of Public Works

**EVR PHASE II, EAST SITE
MUNICIPAL SERVICE CENTER
13802 NEWHOPE STREET**

ATTACHMENT "A"



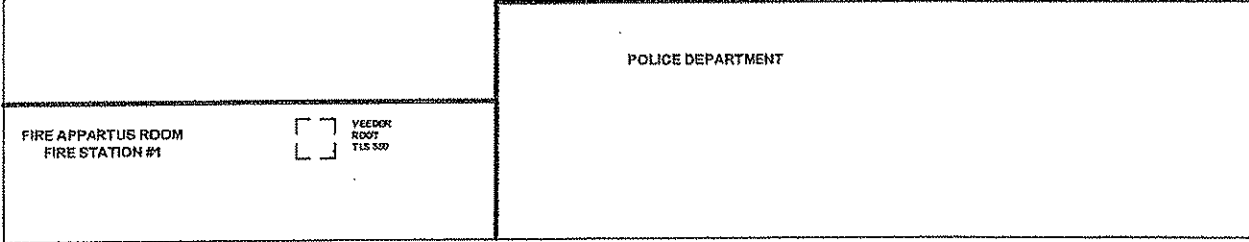
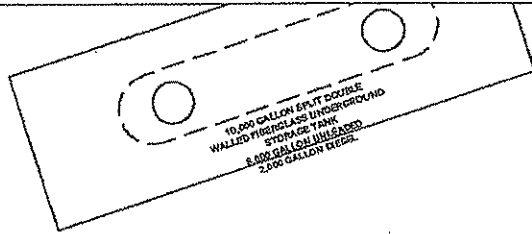
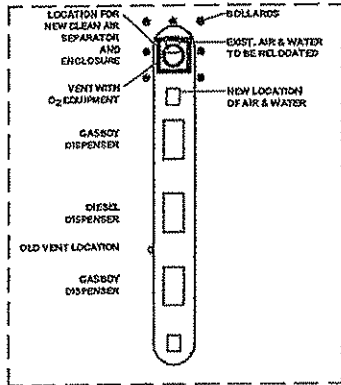
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City Of Garden Grove
Department Of Public Works

EVR PHASE II, WEST SITE
MUNICIPAL SERVICE CENTER
13802 NEWHOPE STREET

ATTACHMENT "A"



CHECKED BY: PC	PREPARED BY: STL	DRAWN BY: STL	SCALE: N.T.S.	PROJECT NO. N/A	DRAWING NO.
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City Of Garden Grove
 Department Of Public Works

EVR PHASE II
 POLICE AND FIRE FACILITY
 11301 ACACIA PARKWAY

ATTACHMENT "A"

SECTION 2 - PROPOSAL

THE HONORABLE MAYOR AND CITY COUNCIL
 CITY OF GARDEN GROVE
 11222 ACACIA PARKWAY
 GARDEN GROVE, CALIFORNIA 92840

To: THE HONORABLE MAYOR AND CITY COUNCIL

The undersigned having carefully examined the Plans and Specifications to: Furnish all Labor, Materials, Tools, and Equipment for Phase II EVR Phase II Upgrade Project at Garden Grove Municipal Service Center and Police Fire Facility. HEREBY PROPOSE to furnish all labor, materials, equipment and transportation, and do all the work required to complete work in accordance with the Plans and Specifications for the sum of:

Site	Line Item		Line Item Price	Total Site Price
Site 1-City of Garden Grove Municipal Service Center: 13802 Newhope Street, Garden Grove, CA				
	1a	Plans and Permitting	\$ 7,600.	\$7,600.
	1b	Retrofit and EVR Phase II Upgrade	\$ 63,790.	63,790.
	1c	Testing	\$ 4,000.	4,000.
		Site Total	75,390.	\$75,390.
Site 2-City of Garden Grove Police Fire Facility: 11301 Acacia Parkway, Garden Grove, CA				
	2a	Plans and Permitting	\$ 3,800.	3,800.
	2b	Retrofit and EVR Phase II Upgrade	\$ 33,090.	33,090.
	2c	Testing	\$ 2,000.	2,000.
		Site Total		\$38,890.

Total Cost of Project (Site 1 and 2) In Written Words
 ONE HUNDRED FOURTEEN THOUSAND TWO \$ 114,280.00
Lump Sum HUNDRED EIGHTY DOLLARS
 The above bid price includes all applicable taxes for the pricing proposed in this submittal.
Note: In case of discrepancy between the words and figures, the words prevail.

It is understood and agreed that:

- (a) No verbal agreement or conversation with any officer, agent or employee of CITY, either before or after the execution of the Agreement shall affect or modify any of the terms or obligations of this Proposal.

ATTACHMENT "A"

(b) CITY will not be responsible for any errors or omissions on the part of the undersigned in making up his bid, nor will bidders be released on account of errors.

(c) The undersigned hereby certifies that this Proposal is genuine and is not sham or collusive, or made in the interest or in behalf of any person not herein named, and that the undersigned has not directly or indirectly induced or solicited any other bidder to put in a sham bid, or any other person, firm or corporation to refrain from bidding, and that the undersigned has not in any manner sought, by collusion, to secure for himself an advantage over any other bidder.

(d) The Bidder acknowledges receipt of amendments to the Solicitation and related documents numbered and dated:

<u>Amendment No.</u>	<u>Date</u>
<u>ONE</u>	<u>NOVEMBER 3, 2008</u>
<u>TWO</u>	<u>NOVEMBER 17, 2008</u>
_____	_____

(e) The undersigned is licensed in accordance with the Laws of the State of California.

ATTACHMENT "A"

Section 2 - Proposal (Cont.)

Check below where appropriate:

- Partnership: That _____ are partners, doing
(Names of all Partners)

business under the firm name of _____ and that
the co-partnership makes the accompanying proposal.
- Corporation: That TERRY L. FLEMING, JR of FLEMING ENVIRONMENTAL makes
(President or Secretary) (Name of Corporation)

the accompanying proposal.
- Individual: That _____ is the bidder and makes the
(Name of Individual)

accompanying proposal.

Date: NOVEMBER 20, 2008 FLEMING ENVIRONMENTAL INC.
 Company Name
6130 VALLEY VIEW STREET
 Address
BUENA PARK, CA 90620-1030
 City - State - Zip
(714) 228-0935
 Telephone
746017
 Calif. Contractors Lic. No.
TERRY L. FLEMING, JR.
 Bidder's Name (Please Print)

PRESIDENT
Authorized Signature