

RESOLUTION NO. 2016-216

A RESOLUTION AUTHORIZING AN AGREEMENT WITH PENNONI ASSOCIATES, INC., HADDON HEIGHTS, NJ, FOR PROFESSIONAL ENVIRONMENTAL CONSULTING SERVICES RELATED TO THE AIR POLLUTION CONTROL OPERATION PERMIT FOR THE CITY OF VINELAND SANITARY LANDFILL, IN AN AMOUNT NOT TO EXCEED \$14,000.00.

WHEREAS, there exists a need for Professional Environmental Consulting Services for Air Pollution Control Permit as required by the New Jersey Department of Environmental Protection in order to continue operating equipment at the Mill Road Landfill; and

WHEREAS, the City of Vineland has a need to acquire such professional environmental consulting services as a Non-Fair and Open Contract pursuant to N.J.S.A. 19:44A-20.5; and

WHEREAS, Pennoni Associates, Inc., Haddon Heights, NJ, has submitted a proposal indicating they will provide the professional services in an amount which will not exceed \$5,000.00 for the contract period June 1, 2016 to January 31, 2017; and

WHEREAS, Pennoni Associates, Inc. has completed and submitted a Business Entity Disclosure Certification and the Political Contribution Disclosure Form for Non-Fair and Open Contract which certifies that Pennoni Associates, Inc. has not made any reportable contributions to a political or candidate committee in the City of Vineland in the previous one year and that the contract will prohibit Pennoni Associates, Inc. from making any reportable contributions through the term of the contract to a political or candidate committee in the City of Vineland; and

WHEREAS, the availability of funds for said Professional Services Contract to be awarded herein have been certified by the City Comptroller; and

WHEREAS, the Local Public Contract Law (N.J.S.A. 40A:11-1, et seq) requires that the Resolution authorizing the award of contract for Professional Services without competitive bidding and the contract itself must be available for public inspection.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Vineland as follows:

1. That the Mayor and Clerk are hereby authorized and directed to execute a Non-Fair and Open Agreement pursuant to N.J.S.A. 19:44A-20.5 with Pennoni Associates, Inc., Haddon Heights, NJ, for Professional Environmental Consulting Services related to the Air Pollution Control Operation Permit for the City of Vineland Sanitary Landfill, in an amount not to exceed \$5,000.00.
2. That this Agreement is awarded without competitive bidding as a Professional Service in accordance with N.J.S.A. 40A:11-5 (1) (a) of the Local Public Contracts Law because said services to be rendered or performed require knowledge of an advanced type in a field of learning acquired by a prolonged formal course of specialized instruction distinguished from general academic instruction or apprenticeship and training.
3. That the Business Disclosure Entity Certification and the Political Contribution Disclosure Form be placed on file with the Resolution.
4. That a Notice of this action shall be printed once in the Daily Journal.

Adopted:

---

President of Council

ATTEST:

---

City Clerk

**REQUEST FOR RESOLUTION FOR CONTRACT AWARDS  
UNDER 40A:11-5 EXCEPTIONS  
(PROFESSIONAL SERVICES, EUS, SOFTWARE MAINTENANCE, ETC)**

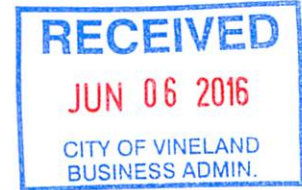
6/6/2016

(DATE)

1. Service (detailed description): Air Pollution Control Operating Permit  
City of Vineland Sanitary Landfill, Mill Road

2. Amount to be Awarded: \$ 5,000.00

- Encumber Total Award  
 Encumber by Supplemental Release



3. Amount Budgeted: \$ 5,000.00

4. Budgeted: By Ordinance No. \_\_\_\_\_  
Or Grant: Title & Year \_\_\_\_\_

5. \*\*Account Number to be Charged: 021-0-00-00-0000-2-5510416

6. Contract Period: June 2016 - January 2017

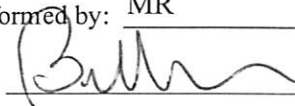
7. Date To Be Awarded: June 28, 2016

8. Recommended Vendor and Address: Pennoni Associates, Inc. 515 Grove Street  
Haddon Heights, NJ 08035

9. Justification for Vendor Recommendation:(attach additional information for Council review)  
Air pollution control permit is required by NJDEP in order to continue  
operating equipment at the Mill Road landfill


- Non-Fair & Open (Pay-to-Play documents required)  
 Fair & Open: How was RFP advertised? \_\_\_\_\_

10. Evaluation Performed by: MR

11. Approved by: 

12. Attachments:

- Awarding Proposal  
 Other: \_\_\_\_\_

- Send copies to:  
Purchasing Division  
Business Administration 

\*\* If more than one account #, provide break down

May 27, 2016

PRO - 1611102

Mr. Brian Myers, P.E.  
Engineering Department, City Engineer  
640 E. Wood Street  
Post Office Box 1508  
Vineland, New Jersey 08210

RE: Proposal for Professional Services – Air Permit Compliance Support  
City of Vineland Sanitary Landfill  
Vineland, New Jersey

Dear Mr. Myers:

Pennoni has prepared this proposal to the City of Vineland (COV) for environmental consulting services to complete and submit the required six-month deviation reports (pursuant to NJAC 7:27-22.19(c)) and annual compliance certification (2015, pursuant to NJAC 7:27-22.19(f)) for the COV's Sanitary Landfill (Facility) located in Vineland, New Jersey, as part of the Facility's air permit requirements.

Pennoni proposes the following scope of services to complete the required submissions.

#### SCOPE OF SERVICES

To help ensure compliance with the reporting requirements of the permit, Pennoni proposes to conduct semi-annual inspections of the operating equipment and landfill vents as well as review any documentation and forms completed by City of Vineland (COV) personnel (i.e. operating logbook). We have included up to two (2) onsite inspections in this proposal, one in June 2016 and one in October 2016.

Pennoni will complete the required six-month deviation reports pursuant to NJAC 7:27-22.19(c) and annual compliance certification pursuant to NJAC 7:27-22.19(f) relating to operating conditions at the facility. In addition, we will note any deviations observed or reported to us, the probable cause of the deviations, and subsequent corrective actions. We have included the completion of two (2) six-month deviation reports (Second Half 2015 and First Half 2016) as well as one (1) annual compliance certificate statement (Year 2015) in this scope of work.

#### SCHEDULE

Pennoni is prepared to begin work on this project upon receipt of written Notice-to-Proceed (NTP) and will endeavor to complete the work in accordance with your operating permit and scheduling needs. Please note that the 2015 Second-Half Deviation Report was due on January 30, 2016. We should have a draft report to you within fourteen (14) days of NTP. This proposal does not include any meetings and/or negotiations with the NJDEP over any potential violations or enforcement actions.

#### FEE

Pennoni will complete the professional services as identified above for the lump sum fee of \$5,000.

The estimated fee above is based on the following assumptions:

- Two (2) copies of each submittal package will be prepared and provided to COV for review prior to submission.
- COV is responsible for any applicable fees to be submitted to the NJDEP.
- COV will designate a *Responsible Person* to sign the reports/certifications for submittal to the NJDEP.
- This proposal does not include any time for response to NJDEP violations.

#### BILLING AND PAYMENT

An invoice for professional services completed will be presented for payment on a monthly basis. Invoices are due net thirty (30) days after invoice receipt. The Client acknowledges that the method of billing and payment has been discussed in detail, that the terms agreed upon can only be changed by a written addendum agreed to by both parties

#### TERMS AND CONDITIONS

##### A. GENERAL

1. Pennoni Associates Inc. General Terms and Conditions (Form LE01 12/2015) are attached hereto and considered as part of the scope of services. The Client indicates by the execution of this proposal that they have reviewed and understand the General Terms and Conditions.

##### B. SPECIAL

1. This proposal is for providing the specific services described within the Scope of Services. Any services provided by Pennoni for this project which are not specifically included in the above Scope of Services are additional services and will be billed as such in addition to the above stated fees. Additional services must be authorized by the Client in writing and in advance of proceeding with the work.
2. The Client shall be responsible for payment of all application / permit / recording fees.

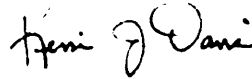
Thank you for the opportunity to provide these professional services. If this proposal is acceptable, please sign and return one (1) copy as our Notice-To-Proceed. This proposal is valid for a period of 30 days. If you have any questions, or if you would like to discuss any of the above, please do not hesitate to contact us.

Sincerely,

PENNONI ASSOCIATES INC.



Kevin L. Little, PE  
Senior Engineer



Kevin J. Davis, PE  
Vice President

cc: File  
Attachment

Accepted by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Company Name

**ATTACHMENT A**

**Pennoni Associates Inc.  
General Terms & Conditions**



**PENNONI ASSOCIATES INC.**  
**GENERAL TERMS & CONDITIONS**  
**[PROJECT# 1611102]**

1. Unless withdrawn sooner, proposals are valid for thirty (30) days.
2. The technical and pricing information in proposals is the confidential and proprietary property of Pennoni Associates Inc. ("Pennoni") or any Pennoni subsidiary or affiliate. Client agrees not to use or to disclose to third parties any technical or pricing information without Pennoni's written consent.
3. The agreement created by the Client's acceptance of a proposal and these Terms & Conditions is hereinafter referred to as the "Agreement." If a proposal is submitted to Client and Client fails to return a signed copy of the proposal but knowingly allows Pennoni to proceed with the services, then Client shall be deemed to have accepted the terms of the proposal and these General Terms & Conditions. If there is a conflict or inconsistency between any express term or condition in the proposal and these General Terms & Conditions, then the proposal shall take precedence. The proposal and these General Terms & Conditions constitute the entire Agreement, and supersede any previous agreement or understanding.
4. Payment is due upon receipt of invoices as submitted. If Client chooses to make any payment via major credit card, Client agrees to pay a 3% surcharge or 1.03 times the total amount invoiced. Client agrees to pay interest at the rate of 1½ percent per month on invoices that are more than 30 days past due. If an invoice is 30 or more days past due, then Pennoni may suspend services and refuse to release work on this Agreement or any other agreement between Client and Pennoni until Client has paid all amounts due. Unless Pennoni receives written notice of Client's dispute of an invoice within 30 days of the invoice date, the invoice will be presumed correct. If payment is not made in accordance with the Agreement, then Client agrees to pay reasonable costs and attorney's fees incurred by Pennoni to collect payment.
5. All drawings, sketches, specifications and other documents ("Documents") in any form, including electronic, prepared by Pennoni are instruments of Pennoni's services, and as such are and shall remain Pennoni's property. Upon payment in accordance with the Agreement, Client shall have the right to use and reproduce the Documents solely for the purposes of constructing, remediating, using or maintaining the project contemplated by the Agreement ("Project"). The Documents are prepared for use on this Project only, and are not appropriate for use on other projects, any additions or alterations of the Project, or completion of the Project by others. Client shall not use the Documents in violation of this paragraph without Pennoni's express written consent; and such use is at the Client's sole risk. Client agrees to indemnify, defend and hold harmless Pennoni from any claims, damages, losses, liabilities and expenses arising from such prohibited use.
6. The proposed fees and schedule constitute Pennoni's best estimate of the charges and time required to complete the Project. As the Project progresses, facts uncovered may dictate revisions in scope, schedule or fee. The hourly rate schedule for services provided on a time and material basis will be subject to increases annually.
7. Fee and schedule commitments will be subject to change for delays caused by Client's failure to provide specified facilities or information, or for delays caused by third parties, unpredictable occurrences or force majeure.
8. Where the method of payment is based on time and materials, Client agrees that the following will apply: The minimum time segment for charging work is one-quarter hour, except the minimum time segment for charging of field survey work is four (4) hours. Client reimbursable expenses include travel and living expenses of personnel when away from the home office on business connected with the Project; subcontractor and subconsultant costs; identifiable communications, mailing and reproduction costs; identifiable drafting and stenographic supplies; and expendable materials and supplies purchased specifically for the Project. A ten (10) percent administrative and handling charge will be added to client reimbursable expenses.
9. Client's termination of this Agreement will not be effective unless Client gives Pennoni seven (7) days prior written notice with accompanying reasons and details, and affords Pennoni an opportunity to respond. Where the method of payment is "Lump Sum," Client agrees that the final invoice will be based on services performed to the effective date of cancellation, plus an equitable adjustment to provide for costs Pennoni incurred for commitments made prior to cancellation. Where the method of payment is time and materials, Client agrees that the final invoice will include all services and direct expenses up to the effective date of cancellation plus an equitable adjustment to provide for costs Pennoni incurred for commitments made prior to cancellation.
10. Pennoni will maintain at its own expense Workman's Compensation insurance, Commercial General Liability insurance, and Professional Liability insurance.
11. Neither the Client nor Pennoni shall assign this Agreement without the written consent of the other.

12. Pennoni does not represent or warrant that any permit or approval will be issued by any governmental or regulatory body. Pennoni will endeavor to prepare applications for such permit or approval in conformance with applicable requirements; but, in view of the complexity of and the frequent changes in applicable rules and regulations and interpretations by the authorities, Pennoni cannot guarantee that any such application will be considered complete or will conform to all applicable requirements.
13. Pennoni will perform its work in accordance with generally accepted professional standards. THERE ARE NO OTHER WARRANTIES, EXPRESSED OR IMPLIED. This Agreement is solely for the benefit of the Client and its successors. There is no third-party beneficiary of this Agreement.
14. CLIENT AND PENNONI HAVE CONSIDERED THE RISKS AND REWARDS ASSOCIATED WITH THIS PROJECT, AS WELL AS PENNONI'S TOTAL FEE FOR SERVICES. CLIENT AGREES THAT, TO THE FULLEST EXTENT PERMITTED BY LAW, PENNONI'S TOTAL AGGREGATE LIABILITY (INCLUDING THE LIABILITY OF ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUBCONTRACTORS AND CONSULTANTS) TO THE CLIENT (AND ANYONE CLAIMING BY, THROUGH OR UNDER THE CLIENT) FOR ANY AND ALL INJURIES, CLAIMS, LOSSES, EXPENSES OR DAMAGES ARISING OUT OF THIS AGREEMENT FROM ANY CAUSE OR CAUSES IS LIMITED TO THE TOTAL FEE RECEIVED BY PENNONI UNDER THIS AGREEMENT OR \$50,000, WHICHEVER IS GREATER. SUCH CAUSES INCLUDE, BUT ARE NOT LIMITED TO, PENNONI'S NEGLIGENCE, ERRORS, OMISSIONS, STRICT LIABILITY, OR BREACH OF CONTRACT OR WARRANTY.  
  
IN THE EVENT THE CLIENT IS UNABLE TO ACCEPT THE ABOVE LIMITATION OF LIABILITY, PENNONI AGREES TO INCREASE THE LIMITATION TO \$1,000,000 UPON ITS RECEIPT, PRIOR TO PERFORMING ANY SERVICES, OF CLIENT'S WRITTEN AGREEMENT TO PAY AN ADDITIONAL SUM OF NOT LESS THAN 10% OF THE TOTAL FEE UNDER THIS AGREEMENT OR \$1,000, WHICHEVER IS GREATER.
15. Client shall make no claim against Pennoni unless the Client first provides a written certification, executed by an independent design professional, specifying those acts or omissions which the independent design professional contends is a violation of generally accepted professional standards and upon which the claim will be premised. The independent design professional must be licensed to practice in the state where the Project is located and in the discipline related to the claim. Client agrees that the independent design professional's certification is a condition precedent to the Client's right to institute any judicial proceeding.
16. If required under the scope of services, Pennoni shall visit the Project site to become generally familiar with the progress and quality of the work for which Pennoni prepared contract documents, and Pennoni shall not make exhaustive or continuous onsite inspections. Pennoni's services do not include supervision or direction of the contractor's work. Observation by Pennoni field representatives shall not excuse the contractor for defects or omissions in its work. Pennoni shall not control construction means, methods, techniques, sequences, or procedures, and the contractor is solely responsible for all work on the Project, including safety of all persons and property.
17. If Client does not retain Pennoni to render construction phase services, then Client waives any claim it may have against Pennoni and agrees to indemnify, defend, and hold harmless Pennoni from any loss or liability, including attorneys fees and other defense costs, arising out of or related to the interpretation of Pennoni's plans and specifications, the review of shop drawings, the evaluation of contractor's request for change orders, or the failure to detect and correct obvious errors or omissions in Pennoni's plans and specifications.
18. Unless and until a court determines that Pennoni's preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs, specifications and/or Pennoni's giving or failure to give instructions is the primary cause of any damage, claim, loss or expenses, Client shall indemnify, defend and hold harmless Pennoni and its officers, employees and consultants from and against all damages, claims, losses or expenses, including reasonable attorneys fees and other costs of defense, arising out of this Agreement. In the event the Client is required to defend Pennoni under this paragraph, Pennoni shall have the right to select its attorneys.
19. Client agrees to pay reasonable expert witness fees if Pennoni or any of its employees is subpoenaed to testify as a fact or opinion witness in any court proceeding, arbitration, or mediation to which the Client is a party.
20. Unless otherwise provided in this proposal, Pennoni shall have no responsibility for the discovery, presence, handling, removal, or disposal of hazardous materials or underground structures at the Project site.
21. Client and Pennoni waive consequential damages arising out of this Agreement.
22. This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania.
23. Both Pennoni and Client agree to waive the right to subrogation for covered losses and each shall obtain similar waivers from Owner, subcontractors, property and casualty insurers, and any other party involved in this Project.