

# VENTURA REGIONAL SANITATION DISTRICT

1001 PARTRIDGE DRIVE, SUITE 150 ■ VENTURA, CA 93003-0704



June 30, 2011

Board of Directors  
Ventura Regional Sanitation District  
Ventura, CA 93003

## VRSD CONTRACT NO. 10-011-3 – FUGRO WEST INC.

### Summary:

The District entered into an agreement with Fugro West, Inc. (Fugro) on May 28, 2010, for geological mapping for the Phase 3B Liner Project. Due to some complications associated with Phase 3B line installation, staff has been utilizing the services of Fugro at a rate greater than anticipated. On June 8, 2011, staff extended the term of the contract with Fugro to June 30, 2013. At that time it was believed that there were sufficient funds (\$20,800) associated with the Fugro contract; therefore, staff only entered into a three-year time extension. However, staff is now requesting an amendment to the contract for an additional \$50,000.

### Background:

As part of Phase 3B liner installation the District's contractor, Sukut Construction, Inc., must excavate to bedrock, remove unsuitable materials, and then create benches for the clay and liner installation. The activity for finding the bedrock and mapping has been more difficult than originally anticipated. Fugro provides a field geologist on site during excavation who will map and report findings.

If you have any questions please contact me at 805-658-4608.

### Fiscal Impact:

Appropriations for this expense are included in the adopted Fiscal Year 2011-2012 budget.

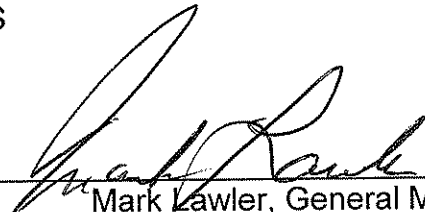
### Recommendation:

It is recommended the Board authorize the Chairman to sign Contract No. 10-011-3 with Fugro West, Inc., increasing the amount of the contract by \$50,000 for a not to exceed amount of \$70,800.

  
SALLY COLEMAN, DIRECTOR OF OPERATIONS

Enc.

APPROVED FOR THE JULY 7, 2011 AGENDA

  
Mark Lawler, General Manager

**CONTRACT NO. 10-011-3**

**AMENDMENT NO. 3 TO CONTRACT NO. 10-011  
AGREEMENT FOR CONSULTING SERVICES  
BETWEEN  
VENTURA REGIONAL SANITATION DISTRICT  
AND  
FUGRO WEST, INC.**

THIS AGREEMENT is made and entered into this 7<sup>th</sup> day of July 2011 by and between the VENTURA REGIONAL SANITATION DISTRICT, a public agency formed pursuant to California Health & Safety Code Section 4700 et seq., hereinafter "DISTRICT" and FUGRO WEST, INC., a California corporation, hereinafter "CONSULTANT."

**RECITALS**

A. On the 28<sup>th</sup> day of May 2010, a certain contract, hereinafter referred to as Contract No. 10-011, was executed between DISTRICT and CONSULTANT to engage the specialized services of a consultant for Geological Mapping for the Phase 3B Liner Project at the Toland Landfill.

B. On the 4<sup>th</sup> day of November 2010, a certain contract, hereinafter referred to as Contract No. 10-011-1, was executed between DISTRICT and CONSULTANT to engage the specialized services of a consultant for Geological Mapping for the Phase 3B Liner Project at the Toland Landfill.

C. On the 8<sup>th</sup> day of June 2011, a certain contract, hereinafter referred to as Contract No. 10-011-2, was executed between DISTRICT and CONSULTANT to engage the specialized services of a consultant for Geological Mapping for the Phase 3B Liner Project at the Toland Landfill.

D. DISTRICT and CONSULTANT have agreed additional compensation is necessary to complete the work and can be accomplished by amending Contract No. 10-011 accordingly.

**AMENDMENT**

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements set forth, it is agreed the aforesaid Contract No. 10-011, a copy of which is attached as Exhibit "I" and incorporated herein by reference, shall remain in full force and effect, except as otherwise hereinafter provided.

The parties agree the following language shall replace the original provisions of Article 6: Payment to Consultant

"B. Total fees to be paid by DISTRICT to CONSULTANT for CONSULTANT's services described herein shall be increased by \$50,000.00 and shall not exceed \$70,800.00 without written amendment hereto."

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

APPROVED AS TO FORM: ARNOLD, BLEUEL,  
LaROCHELLE, MATHEWS, & ZIRBEL, LLP

VENTURA REGIONAL SANITATION DISTRICT

By \_\_\_\_\_  
MARK A. ZIRBEL  
Legal Counsel for DISTRICT

By \_\_\_\_\_  
JAMES L. MONAHAN, Chairman  
Board of Directors

ATTEST:

FUGRO WEST, INC.

By \_\_\_\_\_  
JOSIE GUZMAN  
Clerk of the Board

By \_\_\_\_\_  
DAVID A. GARDNER, Senior Vice President

Exhibit "I"

CONTRACT NO. 10-011  
AGREEMENT FOR CONSULTING SERVICES  
BETWEEN  
VENTURA REGIONAL SANITATION DISTRICT  
AND  
FUGRO WEST, INC.

THIS AGREEMENT is made and entered into this 28<sup>th</sup> day of May 2010 by and between the VENTURA REGIONAL SANITATION DISTRICT, a public agency formed pursuant to California Health & Safety Code Section 4700 et seq., hereinafter "DISTRICT," and FUGRO WEST, INC., a California corporation, hereinafter "CONSULTANT."

RECITALS

- A. DISTRICT has an need to engage the specialized services of a consultant for Geological Mapping for the Phase 3B Liner Project at the Toland Landfill.
- B. DISTRICT has selected CONSULTANT as best qualified based on CONSULTANT's previous service to DISTRICT and resultant unique expertise in relation to DISTRICT operations. The selection procedure is in conformance with Section 403 of DISTRICT Purchasing Resolution No. 89-13.
- C. CONSULTANT represents it possesses the necessary skills and experience to perform the required services and is willing to contract with DISTRICT.
- D. The parties enter into this Agreement to set forth their respective rights and obligations.

AGREEMENT

ARTICLE 1: WORK STATEMENT

A. CONSULTANT shall provide consulting services for DISTRICT in regards to the specialized services of a consultant for Geological Mapping for the Phase 3B Liner Project at the Toland Landfill, hereinafter referred to as the "Project" as described in the Scope of Service attached as Exhibit "A" and incorporated herein by reference.

B. CONSULTANT shall designate a representative who shall represent CONSULTANT and be its sole contact and agent in all consultations with DISTRICT during fulfillment of the terms of this Agreement. CONSULTANT's representative shall be Lori E. Prentice. In the event Lori E. Prentice becomes unavailable, CONSULTANT shall immediately designate another representative satisfactory to DISTRICT. CONSULTANT shall use its best efforts in providing services to DISTRICT and shall cooperate with DISTRICT and provide DISTRICT with all available information and assistance in relation to the Project.

C. DISTRICT shall assign a Staff Coordinator to work directly with CONSULTANT in connection with CONSULTANT's services to be performed under this Agreement.

ARTICLE 2: TERM OF CONTRACT

Unless otherwise earlier terminated, this Agreement shall continue in force until the services specified herein have been fully performed. Upon execution of this Agreement by both parties, CONSULTANT shall diligently pursue work to assure completion on a timely basis. Unless otherwise extended in writing by both parties, this contract shall automatically terminate on August 30, 2010.

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**ARTICLE 3: INDEPENDENT CONTRACTOR RELATIONSHIP**

A. It is expressly understood between the parties that no employee/employer relationship is intended, the relationship of CONSULTANT to DISTRICT being that of an independent contractor. DISTRICT shall not be required to make any payroll deductions or provide Workers' Compensation Insurance coverage or health benefits to CONSULTANT.

B. CONSULTANT is solely responsible for selecting the means, methods and procedures for performing its services hereunder as assigned by DISTRICT and for coordinating all portions of the work so the results will be satisfactory to DISTRICT but shall not be responsible for the means, methods, and procedures of other consultants. CONSULTANT will supply all tools and instrumentalities required to perform its services under this Agreement.

C. CONSULTANT pursuant to this Agreement is rendering professional services only and any payments made to it are compensation solely for such services as it may render and recommendations it may make in the performance of services.

**ARTICLE 4: COMPLIANCE WITH LAWS**

CONSULTANT shall be solely responsible for giving all notices and complying with all applicable laws, ordinances, rules, regulations and lawful orders of any public authority relating to CONSULTANT's work, the safety of the persons or property involved, and their protection from damage or injury. CONSULTANT shall defend, indemnify and hold DISTRICT harmless from and against all claims, demands, payments, suits, actions, proceedings and judgments of every nature and description, including attorneys fees and costs, brought or recovered against DISTRICT, for or on account of any negligent violation of said laws, ordinances, rules, regulations and orders in connection with work performed by CONSULTANT under this Agreement.

**ARTICLE 5: CONFIDENTIAL RELATIONSHIP/TITLE TO DOCUMENTS**

CONSULTANT agrees that all dealings of the parties under this Agreement shall be confidential and no report, data, information or communication developed, prepared or assembled by CONSULTANT under this Agreement, or any information made available to CONSULTANT by DISTRICT, shall be revealed, disseminated or made available by CONSULTANT to any person or entity other than DISTRICT without the prior written consent of DISTRICT. All data, calculations, drawings and other documents developed, prepared, completed or acquired by CONSULTANT during the performance of its services hereunder shall be turned over to DISTRICT upon termination of this Agreement.

**ARTICLE 6: PAYMENT TO CONSULTANT**

A. In consideration of CONSULTANT's performance of services as described herein, DISTRICT shall pay CONSULTANT fees for its services according to the schedule of rates set forth in Exhibit "B" attached and incorporated by reference herein. On or prior to the tenth day of each calendar month after actual work is started, CONSULTANT shall submit an invoice in sufficient detail to show the total amount of work done and materials furnished by CONSULTANT and incorporated into the work to the last day of the month preceding the one in which the invoice is submitted. When possible, such invoice shall include the name and title of each person performing work, date and brief description of the work performed, number and type of hours worked, and labor rate. DISTRICT shall review and approve CONSULTANT's invoice for accuracy and agree with CONSULTANT on any adjustments that may be appropriate. Such approvals shall not be unreasonably withheld. DISTRICT shall pay CONSULTANT for all approved work and materials within 30 days of agreement on the amount of the invoice. In the event of disagreement with CONSULTANT on adjustments or

disallowances, said amounts and disputes shall be withheld until resolved. Upon resolution of the disagreements, payment of the approved amount shall be made within 30 days after deducting therefrom all previous payments and all sums to be retained under the terms of the agreement.

B. Total fees to be paid by DISTRICT to CONSULTANT for CONSULTANT's services described herein shall not exceed \$10,600 without written amendment hereto.

C. No payment made under this Agreement, except the final payment, shall be conclusive evidence of CONSULTANT's performance of the Agreement, either wholly or in part, and no payment shall be construed to be an acceptance of CONSULTANT's services performed. DISTRICT shall provide CONSULTANT with written documentation of completion of work along with final payment.

#### **ARTICLE 7: CHANGE ORDERS**

No change to Exhibit "A" hereto, or to any other provision of this Agreement, may be made except by a written amendment signed by CONSULTANT and DISTRICT. DISTRICT General Manager or his designee shall be authorized to approve changes to this Agreement in a manner consistent with the provisions of District Resolution No. 89-13. Each change order shall not exceed ten percent or \$10,000, and the aggregate total of the original contract and all change orders shall not exceed \$25,000 without Board approval.

#### **ARTICLE 8: SUSPENSION OR TERMINATION OF CONTRACT**

All work shall be done in a diligent and professional manner to DISTRICT's satisfaction. CONSULTANT specifically acknowledges and agrees that DISTRICT may suspend or terminate CONSULTANT's services at any time with or without cause, regardless of whether CONSULTANT's services or the Project are completed. Any termination or any special instructions hereunder from DISTRICT shall be made in writing. In the event of such termination or suspension exceeding three (3) months, CONSULTANT shall have the right to expend additional time to assemble the work in progress for the particular section of work for the purpose of proper filing and closing the job. Such additional time shall not exceed ten percent of the total time expended on the section or sections of work suspended at and to the date of the notice of suspension or termination, and shall not increase CONSULTANT's total compensation beyond the maximum stated in Article 6.

In the event suspension of services exceeds twelve (12) months in duration, CONSULTANT may, by not less than thirty (30) days' written notice, terminate the services as they apply to the suspended portion of the project. In the event this Agreement is terminated by either DISTRICT or CONSULTANT, all reports, specifications and appurtenant data shall be delivered by CONSULTANT to DISTRICT and may be used by DISTRICT.

#### **ARTICLE 9: INDEMNIFICATION AND HOLD HARMLESS**

CONSULTANT agrees to defend, indemnify and hold harmless DISTRICT, and its officers, agents and employees, from and against any and all liability, damages, costs, losses, claims and expenses, however caused, resulting directly or indirectly from or connected with CONSULTANT's negligent performance of this Agreement (including, but not limited to such liability, cost, damage, loss, claim or expense arising from the death of or injury to, or damage to property of CONSULTANT, DISTRICT, or their respective employees or agents), except to the extent that such liability, damages, costs, losses, claims or expenses are caused by the negligent or wrongful acts or omissions of DISTRICT or any of its agents or employees.

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**ARTICLE 10: INSURANCE**

CONSULTANT shall provide and keep in effect during the term of this Agreement insurance as follows:

- A. Workers' Compensation and Employer's Liability in accordance with applicable laws.
- B. Comprehensive Commercial Liability policies with combined single limit coverage of \$1,000,000 for any personal injury, death, or property damage.
- C. Comprehensive Automobile Liability policies with combined single limit coverage of \$1,000,000 for personal injury, death, or property damage.
- D. Errors and Omissions coverage with minimum limits of \$1,000,000 in full force and effect during the life of this contract.

CONSULTANT shall provide certificates of such insurance to DISTRICT prior to the start of work. Said certificates shall specifically provide that: (1) DISTRICT is an additional insured for the coverage in Items B and C above; (2) any other insurance coverage applicable to the loss shall be deemed excess coverage and CONSULTANT's insurance shall be primary for the coverage in Items B and C above; (3) in the event of CONSULTANT's error or omission, CONSULTANT's insurance shall respond for the coverage in Item D above; and (4) such insurance shall not be terminated or canceled without thirty (30) days' prior written notice having been given DISTRICT at its address set forth in this Agreement, except that ten (10) days' written notice shall be acceptable in the case of cancellation for nonpayment.

**ARTICLE 11: SUBCONTRACTORS**

This Agreement is a personal service contract and the consulting work hereunder shall not be delegated or assigned by CONSULTANT to any person or entity without the consent of DISTRICT. Breach of this provision shall be grounds for immediate termination of this Agreement.

**ARTICLE 12: NOTICES**

All notices or other official correspondence relating to contractual matters between the parties shall be made by depositing the same as first-class, postage paid mail addressed as follows:

To CONSULTANT: David A. Gardner, Senior Vice President  
FUGRO WEST, INC.  
4820 McGrath Street, Suite 100  
Ventura, CA 93003

To DISTRICT: Finance & Administration  
VENTURA REGIONAL SANITATION DISTRICT  
1001 Partridge Drive, Suite 150  
Ventura, California 93003-0704

or to such other address as either party may designate hereinafter in writing delivered to the other party. All notices shall be deemed to have been received three (3) days after mailing.

**ARTICLE 13: NO WAIVER**

No failure or delay by DISTRICT in asserting any of DISTRICT's rights and remedies as to any default of CONSULTANT shall operate as a waiver of the default, of any subsequent or other default by CONSULTANT, or of any of DISTRICT's rights or remedies. No such delay shall deprive DISTRICT of its right to institute and maintain any action or proceeding which may be necessary to protect, assert or enforce any rights or remedies arising out of this Agreement or the performance of this Agreement.

**ARTICLE 14: PARTIAL INVALIDITY**

If any term, covenant, condition, or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated thereby.

**ARTICLE 15: TERMS**

No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the parties. No oral understanding or agreement not incorporated herein shall be binding on any of the parties.

**ARTICLE 16: INCORPORATION OF RECITALS**

The foregoing recitals are incorporated herein as though fully set forth.

**ARTICLE 17: CALIFORNIA LAW**

This Agreement shall be interpreted and construed pursuant to the laws of the State of California. The parties agree that should litigation arising from this Agreement be commenced within California, such litigation shall occur within a court of competent jurisdiction within the County of Ventura.

**ARTICLE 18: ADDITIONAL PROVISIONS**

CONSULTANT agrees that no regular employee of DISTRICT shall be employed by its firm during the period that this Agreement is in effect.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

VENTURA REGIONAL SANITATION DISTRICT

FUGRO WEST, INC.

By *Vickie Dragan*  
VICKIE DRAGAN, Director of Finance

By *David A. Gardner*  
for DAVID A. GARDNER, Senior Vice President

**INTERNAL USE ONLY**

Principal Analyst *[Signature]*

Finance Manager *[Signature]*

Director of Finance \_\_\_\_\_

Fiscal Technician \_\_\_\_\_

FUGRO WEST, INC.



4820 McGrath Street, Suite 100  
Ventura, California 93003-7778  
Tel: (805) 650-7000  
Fax: (805) 650-7010

May 6, 2010  
Proposal No. 2010.192

Ventura Regional Sanitation District  
1001 Partridge Dr., Suite 150  
Ventura, California 93003

Attention: Mr. Frank Kiesler

Subject: Proposal for Geologic Mapping, Phase 3B Liner Project, Toland Road Landfill,  
Ventura County, California

Dear Mr. Kiesler:

Fugro West, Inc., (Fugro) is pleased to present this proposal to perform geologic mapping, observations, and documentation for the Phase 3B liner project at the Toland Road Landfill. Based on review of the project timeline by Sukut Construction that you provided to us, the excavation and grading schedule is anticipated to be about 12 days for Part 1 and 25 days for Part 2 of the project. The excavation timeframe is planned for about May to July 2010.

We propose to provide geologic site observations during excavation of slope backcuts to observe and record geologic conditions exposed during excavation. We anticipate that site observations will be made about twice per week for about 5 hours per visit including travel from our Ventura office by one of our geologists. Based on a total excavation schedule of 37 days, we have provided for eight site visits to observe the exposed geologic conditions. We will prepare a technical memorandum to summarize the findings and observations. The memorandum will include a map documenting the geologic observations and measurements performed for the Phase 3B project.

We estimate the cost to provide the services described herein to be \$10,600. We are available to start work on the project upon receiving authorization and assume that the work will be performed as a task order to our existing agreement.

We appreciate the opportunity to continue to provide services to VRSD at Toland Road Landfill. Please call if you have any questions regarding this proposal.

Sincerely,

FUGRO WEST, INC.

A handwritten signature in black ink, appearing to read "Lorr E. Prentice".

Lorr E. Prentice, C.E.G.  
Principal Engineering Geologist

Copies Submitted: (1-Pdf) Addressee



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**CONTRACT NO. 10-011-1**

**AMENDMENT NO. 1 TO CONTRACT NO. 10-011  
AGREEMENT FOR CONSULTING SERVICES  
BETWEEN  
VENTURA REGIONAL SANITATION DISTRICT  
AND  
FUGRO WEST, INC.**

THIS AGREEMENT is made and entered into this 4<sup>th</sup> day of November 2010 by and between the VENTURA REGIONAL SANITATION DISTRICT, a public agency formed pursuant to California Health & Safety Code Section 4700 et seq., hereinafter "DISTRICT" and FUGRO WEST, INC., a California corporation, hereinafter "CONSULTANT."

**RECITALS**

A. On the 28<sup>th</sup> day of May 2010, a certain contract, hereinafter referred to as Contract No. 10-011, was executed between DISTRICT and CONSULTANT to engage the specialized services of a consultant for Geological Mapping for the Phase 3B Liner Project at the Toland Landfill.

B. DISTRICT and CONSULTANT have agreed additional compensation is necessary to complete the work and can be accomplished by amending Contract No. 10-011 accordingly.

**AMENDMENT**

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements set forth, it is agreed the aforesaid Contract No. 10-011, a copy of which is attached as Exhibit "I" and incorporated herein by reference, shall remain in full force and effect, except as otherwise hereinafter provided.

The parties agree the following language shall replace the original provisions of Article 2: Term of Contract

"Unless otherwise earlier terminated, this Agreement shall continue in force until the services specified herein have been fully performed. Upon execution of this Agreement by both parties, CONSULTANT shall diligently pursue work to assure completion on a timely basis. Unless otherwise extended in writing by both parties, this contract shall automatically terminate on June 30, 2011."

The parties agree the following language shall replace the original provisions of Article 6: Payment to Consultant

"A. Total fees to be paid by DISTRICT to CONSULTANT for CONSULTANT's services described herein shall be increased by \$10,200.00 and shall not exceed \$20,800.00 without written amendment hereto."

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

APPROVED AS TO FORM: ARNOLD, BLEUEL,  
LaROCHELLE, MATHEWS, & ZIRBEL, LLP

By *Mark A. Zirbel*  
MARK A. ZIRBEL  
Legal Counsel for DISTRICT

VENTURA REGIONAL SANITATION DISTRICT

By *Charlotte Craven*  
CHARLOTTE CRAVEN, Chairman  
Board of Directors

ATTEST:

By *Josie Guzman*  
JOSIE GUZMAN  
Clerk of the Board

FUGRO WEST, INC.

By *David A. Gardner*  
for DAVID A. GARDNER, Senior Vice President

INTERNAL USE ONLY

Principal Analyst *AK 10/10*

Finance Manager *Kim D. [unclear] 10/27/10*

Director of Finance *JD*

Fiscal Technician \_\_\_\_\_

CONTRACT NO. 10-011-2

AMENDMENT NO. 2 TO CONTRACT NO. 10-011  
AGREEMENT FOR CONSULTING SERVICES  
BETWEEN  
VENTURA REGIONAL SANITATION DISTRICT  
AND  
FUGRO WEST, INC.

THIS AGREEMENT is made and entered into this 8 day of June 2011 by and between the VENTURA REGIONAL SANITATION DISTRICT, a public agency formed pursuant to California Health & Safety Code Section 4700 et seq., hereinafter "DISTRICT" and FUGRO WEST, INC., a California corporation, hereinafter "CONSULTANT."

RECITALS

A. On the 28<sup>th</sup> day of May 2010, a certain contract, hereinafter referred to as Contract No. 10-011, was executed between DISTRICT and CONSULTANT to engage the specialized services of a consultant for Geological Mapping for the Phase 3B Liner Project at the Toland Landfill.

B. On the 4<sup>th</sup> day of November 2010, a certain contract, hereinafter referred to as Contract No. 10-011-1, was executed between DISTRICT and CONSULTANT to engage the specialized services of a consultant for Geological Mapping for the Phase 3B Liner Project at the Toland Landfill.

C. DISTRICT and CONSULTANT have agreed additional time is necessary to complete the work and can be accomplished by amending Contract No. 10-011 accordingly.

AMENDMENT

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements set forth, it is agreed the aforesaid Contract No. 10-011, a copy of which is attached as Exhibit "I" and incorporated herein by reference, shall remain in full force and effect, except as otherwise hereinafter provided.

The parties agree the following language shall replace the original provisions of Article 2: Term of Contract

"Unless otherwise earlier terminated, this Agreement shall continue in force until the services specified herein have been fully performed. Upon execution of this Agreement by both parties, CONSULTANT shall diligently pursue work to assure completion on a timely basis. Unless otherwise extended in writing by both parties, this contract shall automatically terminate on June 30, 2013."

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

VENTURA REGIONAL SANITATION DISTRICT

FUGRO WEST, INC.

By *Vickie Dragan*  
VICKIE DRAGAN, Director of Finance

By *David A. Gardner*  
DAVID A. GARDNER, Senior Vice President