

VENTURA REGIONAL SANITATION DISTRICT

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



January 26, 2012

Board of Directors
Ventura Regional Sanitation District
Ventura, CA 93003

SECOND AMENDMENT TO VRSD CONTRACT NO. 10-040-2, RICHARD BALDWIN

Summary:

Staff is requesting approval to amend existing VRSD Contract No. 10-040 with Richard Baldwin to increase the contract for a new not to exceed amount of \$73,500 and extend the term until December 31, 2012. The primary purpose of this contract is to provide source emissions evaluations, assistance in obtaining a final permit from the Ventura County Air Pollution control District, and to assist in evaluating odor reduction measures.

Background:

On November 18, 2010, VRSD retained the services of Richard Baldwin to assist with oversight of the source testing necessary to obtain the final permit from APCD; to assist in completing all documentation, data collection, and records to obtain the final permit from APCD for the biosolids/microturbine project; and to assist the District evaluating odor reduction measures.

Following the actions ordered by APCD at its December 12, 2011 hearing, VRSD has accelerated its activities related to improvements to emissions controls at the Toland Road Landfill. Mr. Baldwin is a recognized air pollution control expert who has demonstrated a unique understanding of the potential odor sources at the landfill and has comprehensive knowledge regarding Ventura County's air emissions regulatory systems. Staff believes that he provides a service needed by VRSD at this time.

Due to the ongoing regulatory effort the contract amount specified in the prior contract has been reached and staff is now requesting approval of this contract amendment for an additional \$40,000 for a not to exceed amount of \$73,500 and extending the contract until December 31, 2012.

Legal Counsel has approved the contract as to form.

Fiscal Impact:


Appropriation for this expense is included in the adopted Fiscal Year 2011-2012 budget in the Professional Services category

Recommendation:

It is recommended the Board authorize the Chairman to sign 10-040-2 with Richard Baldwin to add an additional \$40,000 to the contract for an amount not to exceed \$73,500 and extend the contract term until December 31, 2012.

Enc.

APPROVED FOR THE FEBRUARY 2, 2012 AGENDA


Mark Lawler - District Manager

CONTRACT NO. 10-040-2

**AMENDMENT NO. 2 TO CONTRACT NO. 10-040
AGREEMENT FOR CONSULTING SERVICES
BETWEEN
VENTURA REGIONAL SANITATION DISTRICT
AND
RICHARD BALDWIN**

THIS AGREEMENT is made and entered into this 2nd day of February 2012 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 RICHARD BALDWIN, hereinafter "CONSULTANT."

RECITALS

A. On the 18th day of November 2010, a certain contract hereinafter referred to as Contract No. 10-040, was executed between DISTRICT and CONSULTANT for specialized services of a CONSULTANT to provide source emissions evaluation, assistance in obtaining final permit from the Ventura County Air Pollution Control District and address odor complaints regarding landfill/Biosolids operations.

B. On the 7th day of July 2011, a certain contract hereinafter referred to as Contract No. 10-040-1, was executed between DISTRICT and CONSULTANT for specialized services of a CONSULTANT to provide source emissions evaluation, assistance in obtaining final permit from the Ventura County Air Pollution Control District and address odor complaints regarding landfill/Biosolids operations.

C. DISTRICT and CONSULTANT have agreed that additions to the original scope of work, time and compensation are necessary to complete the work and can be accomplished by amending Contract No. 10-040 accordingly.

AMENDMENT

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements set forth, it is agreed the aforesaid Contract No. 10-040, 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 December 31, 2012."

The parties agree the following language shall replace the original provisions of Article 5: Payment of Fees to Consultant:

"B. Total fees to be paid by DISTRICT to CONSULTANT for CONSULTANT's services described herein shall be increased by \$40,000.00 and shall not exceed \$73,500.00 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 _____
JONATHAN SHARKEY, Chairman
Board of Directors

ATTEST:

By _____
JOSIE GUZMAN, Clerk of the Board

By _____
RICHARD BALDWIN

Exhibit "I"

CONTRACT NO. 10-040-1

AMENDMENT NO. 1 TO CONTRACT NO. 10-040
AGREEMENT FOR CONSULTING SERVICES
BETWEEN
VENTURA REGIONAL SANITATION DISTRICT
AND
RICHARD BALDWIN

THIS AGREEMENT is made and entered into this 7th 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 RICHARD BALDWIN, hereinafter "CONSULTANT."

RECITALS

A. On the 18th day of November 2010, a certain contract hereinafter referred to as Contract No. 10-040, was executed between DISTRICT and CONSULTANT for specialized services of a CONSULTANT to provide source emissions evaluation, assistance in obtaining final permit from the Ventura Air Pollution Control District and address odor complaints regarding landfill/Biosolids operations.

B. DISTRICT and CONSULTANT have agreed that additions to the original scope of work, time and compensation are necessary to complete the work and can be accomplished by amending Contract No. 10-040 accordingly.

AMENDMENT

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements set forth, it is agreed the aforesaid Contract No. 10-040, 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, 2012."

The parties agree the following language shall replace the original provisions of Article 5: Payment of Fees to Consultant:


"B. Total fees to be paid by DISTRICT to CONSULTANT for CONSULTANT's services described herein shall be increased by \$20,000.00 and shall not exceed \$53,500.00 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
Legal Counsel for DISTRICT

VENTURA REGIONAL SANITATION
DISTRICT

By 
JAMES L. MONAHAN, Chairman
Board of Directors

ATTEST:

By 
JOSIE GUZMAN, Clerk of the Board

By 
RICHARD BALDWIN

Exhibit "I"

**CONTRACT NO. 10-040
AGREEMENT FOR CONSULTING SERVICES
BETWEEN
VENTURA REGIONAL SANITATION DISTRICT
AND
RICHARD BALDWIN**

THIS AGREEMENT is made and entered into this 18th 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., ("DISTRICT") and RICHARD BALDWIN ("CONSULTANT.")

RECITALS

A. DISTRICT has a need to engage the specialized services of a CONSULTANT to provide source emissions evaluation, assistance in obtaining final permit from the Ventura Air Pollution Control District and address odor complaints regarding landfill/Biosolids operations.

B. DISTRICT has selected CONSULTANT in conformance with the negotiated procurement provisions of Section 403 of the DISTRICT Purchasing Resolution No. 89-13.

AGREEMENT

ARTICLE 1: WORK STATEMENT

A. CONSULTANT shall provide the consulting services described in the Work Plan which is attached as Exhibit "A" to this Agreement and incorporated herein.

B. CONSULTANT shall use his 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 Work Plan.

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.

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 result will be satisfactory to the DISTRICT. CONSULTANT will supply all tools and instrumentalities required to perform its services under this Agreement.

10-7

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: 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.

CONSULTANT shall provide copies of original source electronic files (i.e. - Microsoft Word or Excel files, Autocad DWG files, etc.) of all work completed as part of this CONTRACT. Such files shall not be protected or otherwise restrict access.

ARTICLE 5: PAYMENT TO CONSULTANT

A. In consideration of CONSULTANT's performance of services as described herein, DISTRICT shall pay CONSULTANT fees for its services at the rate of \$135 per hour plus any expenses which are pre-approved by DISTRICT. 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 to the last day of the month preceding the one in which the invoice is submitted. 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 \$33,500 without written amendment hereto.

ARTICLE 6: 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 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, CONSULTANT shall have the right to expend additional time (not to exceed 10% of the total fees payable under this Agreement) to assemble the work in progress for the purpose of proper filing and closing the job. Such additional time shall not increase CONSULTANT's total compensation beyond the maximum stated in Article 5.

ARTICLE 7: 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.

ARTICLE 8: INSURANCE

CONSULTANT shall provide and keep in effect during the term of this Agreement Comprehensive Automobile Liability insurance policies with combined single limit coverage of at least \$300,000 for personal injury, death, or property damage. CONSULTANT shall also supply the DISTRICT with \$1,000,000 in Business Liability and Medical Expenses insurance certificates. CONSULTANT shall provide certificates of such insurance to DISTRICT prior to the start of work.

ARTICLE 9: SUBCONSULTANTS

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 10: 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: RICHARD BALDWIN
5551 Kamet Court
Ventura, California 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 11: 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 12: 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 13: TERMS

No alteration or amendment 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 14: 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.

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

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 
CHARLOTTE CRAVEN, Chairman Board of
Directors

ATTEST:

By 
JOSÉ GUZMAN, Clerk of the Board

By 
RICHARD BALDWIN

INTERNAL USE ONLY

Principal Analyst  11/2/10

Finance Manager  11/2/10

Director of Finance 

Fiscal Technician _____

EXHIBIT "A"

**Richard Baldwin
Air Quality Consultant**

The scope of Mr. Baldwin's consulting services engagement may include, but shall not be limited to the following:

1. **Oversee the source emission retesting of the Biosolids dryers.**
2. **Assist District in completing all documentation, data collection and records to obtain the final permit from the Ventura County Air Pollution District for the Biosolids/microturbine project.**
3. **Assist the District in addressing odor complaints regarding landfill/Biosolids operations from neighbors and working with regulators to address any verified odor issues emanating from the Toland Road landfill.**