



May 2, 2019

Board of Directors  
Ventura Regional Sanitation District  
Ventura, California

## **APPROVAL OF CONTRACT NO. 19-004 WITH APTIM ENVIRONMENTAL & INFRASTRUCTURE, LLC FOR FLAIR MODIFICATION SERVICES**

### **RECOMMENDATION**

Approve, and authorize the Board Chair to sign, VRSD Contract No. 19-004 with Aptim Environmental & Infrastructure, Inc. for an amount not to exceed \$60,000.

### **FISCAL IMPACT**

Funds required for this contract are included in the adopted FY2018-19 Solid Waste capital budget under account No. 90-490-499921-52082.

### **BACKGROUND/ANALYSIS**

Aptim Environmental & Infrastructure, Inc. (Aptim) is the manufacturer of the flare at the Toland Road Landfill. The District needs to make several modifications to this flare. First, adjustments need to be made to the flare's louvers in order to address issues with resonance created when landfill gas is delivered at certain volumetric rates. Second, updates to electrical drawings and the flare's HMI (human-machine interface) screen are required as a result of changes staff made to the system in the last year. Third, condensate injection equipment manufactured by Aptim that was previously purchased will allow condensate to be injected in the flare and destroyed under high temperature.

It will be necessary for Aptim to send service technicians and engineers to the site to complete these required flare modifications and install and commission the condensate injection equipment, and Aptim will provide field support while the flare system is tested to ensure it is in compliance with the Title V air quality permit.

### **PROPOSAL**

As the manufacturer of the flare at the Toland Road landfill, Aptim is deemed to be uniquely qualified to provide the necessary components to modify the flare. They are also considered to be the only appropriate service provider to install these components, test the flare following these installations, and provide critical engineering and technical support. Section 403 of VRSD Resolution 89-13, allows for negotiated procurement with service providers under circumstances such as these.

This letter and the associated contract have been reviewed by Legal Counsel as to form.

If you should have any questions or need additional information, please contact me by phone at (805) 658-4679 or via email at mattbaumgardner@vrsd.com.



MATT BAUMGARDNER, DIRECTOR OF OPERATIONS

APPROVED FOR BUDGET IMPACT:

  
Alvertina Rivera, Director of Finance

APPROVED FOR AGENDA:

  
Chris Theisen, General Manager

Attachments: VRSD Contract No. 19-004

**VENTURA REGIONAL SANITATION DISTRICT  
CONTRACT NO. 19-004**

**AGREEMENT FOR FLARE MODIFICATION SERVICES  
BETWEEN  
VENTURA REGIONAL SANITATION DISTRICT  
AND  
APTIM ENVIRONMENTAL & INFRASTRUCTURE, LLC**

THIS AGREEMENT is made and entered into this 2<sup>nd</sup> day of May 2019, by and between the VENTURA REGIONAL SANITATION DISTRICT, a public agency/regional sanitation district formed pursuant to California Health & Safety Code Section 4700 et seq. ("DISTRICT") and APTIM ENVIRONMENTAL & INFRASTRUCTURE, LLC, a Louisiana limited liability company ("CONTRACTOR"). Together, CONTRACTOR and DISTRICT shall be referred to herein as Parties.

**RECITALS**

- A. DISTRICT owns a flare manufactured by LFG Specialties at its Toland Road Landfill located at 3500 Toland Road, Santa Paula, CA 93060.
- B. CONTRACTOR is the owner of the LFG Specialties brand of flares and currently services the flare located at the Toland Road Landfill.
- C. From time to time, the DISTRICT needs to modify the flare in order to meet regulatory requirements.
- D. CONTRACTOR represents that it has the expertise and experience to provide these services to the DISTRICT at the Toland Road Landfill and that it is uniquely qualified to perform such landfill gas collection system flare maintenance and modification.
- E. Based upon the above representations and in conformance with the negotiated procurement provisions of Section 403 in the DISTRICT's Purchasing Resolution No. 89-13, DISTRICT has selected CONTRACTOR to provide flare modification services for the Toland Road Landfill.
- F. Parties, based upon the valuable and mutual consideration set forth below and the recitals above, agree to enter into and to abide by this Agreement's terms and conditions as set forth herein.

**AGREEMENT**

**ARTICLE 1: WORK STATEMENT/SCOPE OF SERVICES**

A. CONTRACTOR shall provide flare modification services to the DISTRICT as described in the STATEMENT OF WORK & RATE SHEET, which is attached as Exhibit "A" to this Agreement and incorporated herein by reference.

B. CONTRACTOR shall use its best professional efforts in providing flare modification services to DISTRICT and shall cooperate fully with DISTRICT and provide DISTRICT with all available information and assistance in relation to Exhibit "A."

C. CONTRACTOR shall begin work, as needed, immediately after the Agreement is signed by both Parties.

D. All work shall be done in a diligent and professional manner to DISTRICT's satisfaction.

**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, CONTRACTOR

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, 2019.

### **ARTICLE 3: INDEPENDENT CONTRACTOR RELATIONSHIP**

A. It is expressly understood between the Parties that no employee/employer relationship is intended, the relationship of CONTRACTOR 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 CONTRACTOR.

B. CONTRACTOR 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. CONTRACTOR will supply all tools and instrumentalities required to perform its services under this Agreement.

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

### **ARTICLE 4: CONFIDENTIAL RELATIONSHIP AND OWNERSHIP OF DOCUMENTS**

A. CONTRACTOR 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 CONTRACTOR under this Agreement, or any information made available to CONTRACTOR by DISTRICT, shall be revealed, disseminated or made available by CONTRACTOR 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 CONTRACTOR during the performance of its services hereunder shall be given or turned over to DISTRICT upon termination of this Agreement.

B. CONTRACTOR shall provide copies of original source electronic files (i.e., Microsoft Word or Excel files, digital photos, videos, etc.) of all work completed as part of this Contract. Such files shall not be protected, encrypted or otherwise have their access restricted. Standard report deliverables (PDF/Excel) are included in the prices quoted in Exhibit A. Raw data files will be provided at an extra charge.

C. Any and all documents, reports, surveys, data compilation, interview results or records produced pursuant to this Agreement by the CONTRACTOR shall be the property of the DISTRICT and under the ownership of the DISTRICT.

### **ARTICLE 5: PAYMENT TO CONTRACTOR**

A. In consideration of CONTRACTOR's performance of services as described herein, DISTRICT shall pay CONTRACTOR fees for its services according to the schedule of rates set forth in Exhibit "A" attached and incorporated by reference herein (i.e., "time and materials"). DISTRICT shall review and approve CONTRACTOR's invoices for accuracy and agree with CONTRACTOR on any adjustments that may be appropriate. Such approvals shall not be unreasonably withheld. DISTRICT shall pay CONTRACTOR for all approved work and materials within thirty (30) days of agreement on the amount of the invoice. In the event of disagreement with CONTRACTOR 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 thirty (30) days after deducting therefrom all previous payments and all sums to be retained under the terms of the agreement.

B. Total fees or compensation to be paid by DISTRICT to CONTRACTOR for CONTRACTOR's services described herein shall not exceed \$60,000 without a mutually acceptable, written amendment hereto.

## **ARTICLE 6: DISTRICT'S RIGHTS**

CONTRACTOR specifically acknowledges and agrees that DISTRICT may terminate CONTRACTOR's services at any time with or without cause, regardless of whether CONTRACTOR'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, CONTRACTOR 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 CONTRACTOR's total compensation beyond the maximum stated in Article 5.

## **ARTICLE 7: INDEMNIFICATION AND HOLD HARMLESS**

CONTRACTOR agrees to defend, indemnify and hold harmless DISTRICT and its officers, and employees, from and against any and all liability, damages, costs, losses, claims and expenses, resulting from or connected with CONTRACTOR'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 CONTRACTOR, 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**

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

- A. Workers' Compensation and Employer's Liability policies in accordance with and as required by applicable laws.
- B. Commercial General Liability policies with combined single limit coverage of at least \$1,000,000 for any personal injury, death, or property damage.
- C. Comprehensive Automobile Liability policies with combined single limit coverage of at least \$1,000,000 for personal injury, death, or property damage.

CONTRACTOR 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 CONTRACTOR's insurance shall be primary for the coverage in Items B and C above; and (3) 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.

## **ARTICLE 9: ASSIGNMENT AND DELEGATION**

This Agreement is a personal service contract and the contracted work hereunder shall not be assigned or delegated by CONTRACTOR to any person or entity without the prior written consent of DISTRICT.

## **ARTICLE 10: AUTHORITY TO EXECUTE AGREEMENT**

Both DISTRICT and CONTRACTOR do covenant that each individual executing this Agreement on behalf of each Party is a person duly authorized and empowered to execute Agreements for such Party.

## **ARTICLE 11: NO WAIVER**

No failure or delay by DISTRICT in asserting any of DISTRICT's rights and remedies as to any default of CONTRACTOR shall operate as a waiver of the default, of any subsequent or other default by

CONTRACTOR, 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: MODIFICATION**

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; VENUE**

This Agreement shall be interpreted and construed pursuant to the laws of the State of California. This Agreement shall be governed by the Uniform Commercial Code of the State of California, as amended. 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 15: COMPLIANCE WITH LAWS**

CONTRACTOR 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 CONTRACTOR's work, the safety of the persons or property involved, and their protection from damage or injury.

#### **ARTICLE 16: FORCE MAJEURE**

Neither CONTRACTOR nor DISTRICT shall be liable or deemed to be in default for any delay or failure in performance under this Agreement due to interruption of services resulting, directly or indirectly, from acts of God, civil or military authority, acts of public enemy, war, strikes, labor disputes, shortages of suitable parts, materials, labor or transportation, or any similar cause beyond the reasonable control of CONTRACTOR or DISTRICT.

#### **ARTICLE 17: DISPUTE RESOLUTION**

In the event that CONTRACTOR and DISTRICT have a dispute concerning the payment of sums pursuant to their Contract, the Parties agree to be governed by Public Contracts Code Section 20104, et seq. In the event of such dispute, CONTRACTOR shall file a written claim with DISTRICT. DISTRICT shall respond in writing within forty-five (45) days or, within thirty (30) days request additional documentation and respond within fifteen (15) days after said request.

#### **ARTICLE 18: NOTICES**

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

To CONTRACTOR: Stephen Martin, Vice President  
APTIM ENVIRONMENTAL & INFRASTRUCTURE, LLC  
4171 Essen Lane  
Baton Rouge, LA 70809

To DISTRICT: General Manager  
VENTURA REGIONAL SANITATION DISTRICT  
1001 Partridge Drive, Suite 150  
Ventura, CA 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 19: EXECUTION IN COUNTERPARTS**

This Agreement may be executed in one or more counterparts which, taken together, shall be deemed one and the same document. The Parties' signatures to this Agreement transmitted by facsimile or electronic mail transmission shall be deemed binding.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first set forth above.

VENTURA REGIONAL  
SANITATION DISTRICT

APTIM ENVIRONMENTAL &  
INFRASTRUCTURE, LLC

By \_\_\_\_\_  
KEVEN KILDEE  
Chairman, Board of Directors

By  \_\_\_\_\_  
STEPHEN MARTIN  
Vice President

ATTEST:

By \_\_\_\_\_  
JULIET RODRIGUEZ  
Clerk of the Board

APPROVED AS TO FORM:  
ARNOLD, LAROCHELLE,  
MATHEWS, VANCONAS & ZIRBEL, LLP

By \_\_\_\_\_  
ROBERT N. KWONG  
Legal Counsel for District

APPROVED AS TO ADMINISTRATION:

By \_\_\_\_\_  
CHRIS THEISEN  
General Manager

## **EXHIBIT A**

### **SCOPE OF SERVICES & RATE SHEET**

The following, subject to DISTRICT modification, deletion or addition, specifies the work statement and scope of work to be performed by CONTRACTOR for this Agreement and the rates to be charged in connection with CONTRACTOR's delivery of laboratory analysis services to DISTRICT.

#### **SCOPE OF SERVICES**

##### **TASKS**

1. **Evaluation and Assessment of the enclosed flare at the Toland Road Landfill that is resonating at ~1850 scfm.**
2. **Rebuild three (3) existing louvers on the existing enclosed flare (Unit #1686) at the Toland Road Landfill.**

In the performance of TASKS 1 and 2, CONTRACTOR will provide or specifically perform the following:

- a. One qualified service technician for 3 days of labor and 2 days of travel.
- b. Evaluate and troubleshoot the current issue pertaining to the flare resonance with the support of LFG Specialties engineering group.
- c. Rebuild the three (3) existing enclosed flare louvers with the rebuild kit the DISTRICT has purchased for this purpose.
- d. Tune and/or calibrate the rebuilt louvers.

##### **Notes:**

- Should additional parts or services be needed, CONTRACTOR shall provide a quote for such parts or services to DISTRICT and obtain the DISTRICT approval before acting upon such need for additional parts or services.
- The quoted number of labor days are only estimates. If additional time is required to perform the Scope of Work, CONTRACTOR will notify DISTRICT in a timely manner and obtain DISTRICT's approval to take such additional time prior to taking additional time to perform the task(s).
- Total estimated cost for TASKS 1 and 2 is **\$12,100.00**. If costs for TASKS 1 and 2 should increase above this estimated amount, CONTRACTOR shall notify DISTRICT and obtain DISTRICT's prior approval before incurring more costs.



3. **Commissioning/Tuning of Condensate Injection Equipment/System at Toland Road Landfill flare**

In the performance of TASK 3, CONTRACTOR will specifically provide or perform the following:

- a. One qualified service technician for 5 days of labor and 2 days of travel.
- b. Confirm installation of piping and instrumentation related to condensate injection equipment.
- c. Install piping & nozzle inside the enclosed flare.
- d. Install air pressure transmitter for the air inlet at flare stack.
- e. Confirm wiring, finalize termination at the flare control panel, and update the existing programs at the flare system and blower skid.
- f. Test functionality of the system in manual mode.

Notes: Flare system commissioning with automatically injecting condensate.

- Periodic shutdowns of the landfill flare will be required throughout installation, testing, and commissioning.
- Total estimated cost for this line item is **\$12,925.00.**

4. **Provide Electrical Engineering Services**

CONTRACTOR will provide the following:

- a. Updated current electrical drawing and HMI screen to accommodate changes performed by the DISTRICT on the two (2) auto valves on this system.

Notes:

- Total estimated cost for this line item is **\$3,520.00.**

5. **Provide Flare Stack Testing Services**

CONTRACTOR will provide the following:

- a. Two days of on-site assistance during the stack test (emissions monitoring equipment furnished by others) for range finding and flare adjustment (travel and living expenses are included)

Notes:

- All compliance/performance testing will be the responsibility of the DISTRICT. If CONTRACTOR is not on-site during stack testing, CONTRACTOR will not assume any liability for a failed test. CONTRACTOR guarantees the enclosed flare will pass emission testing if the flare is operating correctly and the proper test procedure is used.
- Total estimated cost for this line item is **\$7,700.00.**

**Total Cost for Services under the Contract**

<b>Items 1 and 2:</b> Evaluate/Assess/Rebuild	<b>\$ 12,100.00</b>
<b>Item 3:</b> Commission/Tune Condensate Injection System	<b>\$ 12,925.00</b>
<b>Item 4:</b> Electrical Engineering Services	<b>\$ 3,520.00</b>
<b>Item 5:</b> Flare Stack Testing Services	<b>\$ 7,700.00</b>

<b>Contingency funds<sup>1</sup>:</b>	<b>\$ 23,755.00</b>
<b>Total amount of Contract</b>	<b>\$ 60,000.00</b>

## STANDARD RATE SHEET

### Office Support

Sr. Project Manager, Sr. Operations Manager, Sr. Electrical Engineer	\$200/hr.
Project Manager, Electrical Engineer	\$170/hr.
CADD	\$130/hr.
Procurement/Administrative Support	\$100/hr.
Material Handling	\$70/hr.

### Service Rates (weekday)

Service Technician	\$1500/day
Project Manager, Electrical Engineer	\$1750/day
Sr. Project Manager, Sr. Electrical Engineer	\$2000/day

### Service Rates (weekend / emergency)

Service Technician	\$2000/day
Project Manager, Electrical Engineer	\$2250/day
Sr. Project Manager, Sr. Electrical Engineer	\$2500/day

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<sup>1</sup> Parties agree that Contingency Funds may only be used upon mutual agreement by the Parties in writing prior to the expenditure of such funds.