

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

830



FROM: Waste Management Department

SUBMITTAL DATE:
February 21, 2013

SUBJECT: First Amendment to the Professional Services Agreement with SCS Energy to Provide Operations and Maintenance of Landfill Gas to Energy

RECOMMENDED MOTION: That the Board of Supervisors approve the First Amendment to the Professional Services Agreement with SCS Energy, and authorize the Chairman to execute the Amendment on behalf of the Board.

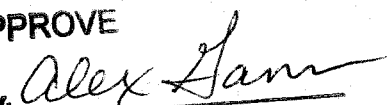
BACKGROUND: On August 31, 2010, the Board approved the Professional Services Agreement between the County and SCS Energy for the Operations and Maintenance of a Landfill Gas to Energy Facility at the Badlands Landfill in the amount of \$1,485,618. On July 23, 2011, a fire occurred which caused damage to the facility. This Amendment is a result of discussions and negotiations between the Riverside County Waste Management Department, County Counsel, and SCS Energy to resolve a dispute regarding the payment for repairing the facility and lost revenue damages resulting from facility underperformance related to the fire.


Hans W. Kernkamp, General Manager-Chief Engineer

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|-----------------------|-------------------------------|------|-------------------------|-------|
| FINANCIAL DATA | Current F.Y. Total Cost: | \$ 0 | In Current Year Budget: | NA |
| | Current F.Y. Net County Cost: | \$ 0 | Budget Adjustment: | NA |
| | Annual Net County Cost: | \$ 0 | For Fiscal Year: | 12/13 |

| | | |
|-------------------------|----------------------------------|--------------------------|
| SOURCE OF FUNDS: | Positions To Be Deleted Per A-30 | <input type="checkbox"/> |
| | Requires 4/5 Vote | <input type="checkbox"/> |

C.E.O. RECOMMENDATION:

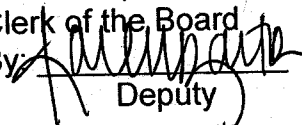
APPROVE
BY: 
Alex Gann

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS


On motion of Supervisor Ashley, seconded by Supervisor Stone and duly carried by unanimous vote, IT WAS ORDERED that the above matter is approved as recommended.

Ayes: Jeffries, Tavaglione, Stone, Benoit and Ashley
Nays: None
Absent: None
Date: March 26, 2013
xc: Waste

Kecia Harper-Ihem
Clerk of the Board
By: 
Deputy

Prev. Agn. Ref.: 12.1 (8/31/10) **District:** 5/5 **Agenda Number:** 12-2 C

ATTACHMENTS FILED WITH THE CLERK OF THE BOARD

FORM APPROVED COUNTY COUNSEL
BY:  DATE: 3/1/13
NEAL R. KIPNIS
Departmental Concurrence

Dept't Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

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**FIRST AMENDMENT
TO
PROFESSIONAL SERVICES AGREEMENT**

This First Amendment to the Agreement is made and entered into this 20th day of March, 2013, by and between Riverside County Waste Management Department ("COUNTY") and Stearns, Conrad and Schmidt Consulting Engineers, Inc. d/b/a SCS Energy ("CONTRACTOR"). The parties agree as follows:

1. The parties entered into the Agreement on August 31, 2010, under the terms of which the CONTRACTOR continues to perform services to provide the COUNTY with operations and maintenance of a landfill gas-to-energy facility ("facility") at the COUNTY's Badlands Landfill. A dispute subsequently arose between the parties related to the facility, in large part due to a fire at the facility. This amendment is the result of discussions and negotiations between the parties, and is intended to resolve the dispute as an appropriate compromise. The Agreement is accordingly amended as stated herein.
2. The CONTRACTOR shall pay all costs to repair the facility from damage related to the fire or other unknown events that occurred on or about July 23, 2011 ("the fire"), in the amount of \$118,862, and for replacement of the heat exchanger in the amount of \$25,896.
3. The COUNTY shall excuse the CONTRACTOR for the time the facility was out of operation because of the fire repair. Specifically, COUNTY excuses CONTRACTOR from lost revenue damages payable under the Agreement for the period of July 23, 2011 to December 23, 2011, totaling 3,684 hours.
4. The CONTRACTOR shall continue to pay and be obligated to pay the COUNTY lost revenue damages for facility underperformance, as stated in the Agreement, that occurred

1 after December 23, 2011 and through the end of the Agreement term. As of December
2 31, 2012, the CONTRACTOR owes the following to the COUNTY for facility
3 underperformance pursuant to the terms of the Agreement:

- 4 • December 23, 2011 through August 31, 2012: \$167,103.40 (due to
5 CONTRACTOR'S heat exchanger issues), and
6 • September 1, 2012 through December 31, 2012: \$27,070.49

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8 5. Pursuant to the dispute between the parties, the COUNTY holds \$138,147.48 due to the
9 CONTRACTOR. The COUNTY will promptly credit these funds against the amounts
10 owed by the CONTRACTOR to the COUNTY.

11 6. All of the other terms and conditions of the Agreement shall remain unchanged and in
12 effect.

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14 RIVERSIDE COUNTY WASTE
15 MANAGEMENT DEPARTMENT
16 14310 Frederick Street
Moreno Valley, CA 92553

SCS Energy
3900 Kilroy Airport Way, Suite 100
Long Beach, CA 90806-6816

17 Dated: 3-26-13

Dated: 3-8-13

18 RECOMMENDED FOR APPROVAL

19 By [Signature]
20 Hans W. Kernkamp
21 General Manager-Chief Engineer

By: [Signature]
JEFFREY FIGUEROA

Title: SENIOR VICE PRESIDENT

22 COUNTY OF RIVERSIDE

23 By [Signature]
24 Chairman, Board of Supervisors
25 **JOHN J. BENOIT**

FORM APPROVED COUNTY COUNSEL
BY: [Signature] 3/11/13
NEAL R. KIPNIS DATE

ATTEST:

By [Signature], Deputy
Kecia Harper-Ihem, Clerk of the Board