WAIVER OF NOTICE AND CONSENT
OF SPECIAL MEETING

We, the Undersigned, being all members of the Riverhead Town Board of the Town of Riverhead, County of Suffolk, and State of New York, do hereby waive notice of the time, place, date and purpose of a meeting of the Town Board of the Town of Riverhead, to be held at the Town Hall, Riverhead, New York at 12:45 p.m. on the 3rd day of December, 2009 and do consent to the holding of such meeting for the purpose of (see attached):

Res. #1112 DENIES THE SPECIAL PERMIT APPLICATION OF MARYANN DILIBERTO (Bed and Breakfast)

Res. #1113 AUTHORIZES THE SUPERVISOR TO EXECUTE AN ADDENDUM TO CONSULTANT/PROFESSIONAL SERVICES AGREEMENT WITH SCS ENGINEERS, P.C.

Res. #1114 AUTHORIZES THE SUPERVISOR TO EXECUTE A RETAINER AGREEMENT WITH MARY C. HARTILL, ESQ. OF THE LAW FIRM OF SALADINO & HARTILL, LLP FOR LEGAL SERVICES FOR THE YEAR 2009/2010 (RIVERHEAD YOUTH COURT)

Res. #1115 RIVERHEAD SEWER DISTRICT BUDGET ADJUSTMENT

Dated: December 3rd, 2009
Media Notified by
Supervisor

TOWN BOARD MEMBERS
of Riverhead, New York

Supervisor

Councilwoman

Councilman

Councilman

Councilman

12/3/ 2009

Adopted

TOWN OF RIVERHEAD

Resolution # 1112

DENIES THE SPECIAL PERMIT APPLICATION OF MARYANN DILIBERTO (Bed and Breakfast)

Councilwoman Blass offered the following resolution,

which was seconded by Councilman Dunleavy

WHEREAS, the Riverhead Town Board is in receipt of a special permit petition from Maryann Diliberto seeking a special use permit for a bed-and-breakfast facility on premises located at Manor Lane, Jamesport, New York more particularly described as Suffolk County Tax Lot Number 0600-47-2-5.5 pursuant to Town Code provisions 108-22 (B)(1) and 108-64.5; and

WHEREAS, the application submitted by applicant, Maryann Diliberto, describes the work on the site as construction of a breezeway between the single family residence and a wine tasting house and internal renovations of a portion of the second story of the wine tasting house; and

WHEREAS, the applicant has appeared before the Town Board with respect to the special use permit petition; and

WHEREAS, the Riverhead Planning Department has reviewed the petition together with the attending Environmental Assessment Form and has recommended that the petition be classified as an Unlisted Action pursuant to 6 NYCRR Part 617; and

WHEREAS, the petition has been referred to the Suffolk County Planning Commission for its report and recommendation; such Planning Commission considering the matter to be of local determination; and

WHEREAS, a public hearing was held by this Town Board on September 15, 2009; and

WHEREAS, Section 108-64.5 states that The Town Board, in its consideration of bed-and-breakfast facilities, shall incorporate the Special Permit requirements of § 108-3 of this chapter and shall require the following:

A. The bed-and-breakfast use shall be an accessory use to a one family dwelling and shall be located within the one family dwelling in residential, commercial and agricultural zoning use districts.

B. The use in all districts allowed under this section shall be exclusively owner-occupied single-family housing. "Owner-occupied one-family dwelling" shall mean a person's legal primary residence as defined in the federal and state tax laws, with proof of real estate ownership/title of said premises and property.

C. The structure shall maintain the character of a one family dwelling.

D. The residence shall be the primary residence of the owner, who is also the operator.

E. All one-family dwellings incorporating bed-and-breakfast as an accessory use shall be a minimum of 2,000 square feet in living area.

F. The maximum number of rented rooms permitted in a bed-and-breakfast shall be limited to five and the length of stay within a bed-and-breakfast shall be a maximum duration of two weeks or 14 consecutive days. Documentation verifying the length of stay of each guest, such as a registration ledger or receipts, will be made available to the Code Enforcement Officer or the Building Department upon
request.

G. Any meal served shall be served only to guests of the bed-and-breakfast facility.

H. The use of amenities provided by the bed-and-breakfast, such as outdoor areas and gardens, swimming pool or tennis court, shall be restricted in use to the overnight guests and permanent residents of the facility.

I. Cooking facilities shall be prohibited in guest bedrooms.

WHEREAS, the Town Code 108-3 defines bed-and-breakfast as "a use accessory to and_located within a one family dwelling where rooms are rented to guests for a maximum stay of two weeks and where meals produced on premises shall only be provided to those individuals staying at the bed-and-breakfast. The maximum number of rented rooms permitted in a bed-and-breakfast shall be limited to five"; and

WHEREAS, the Town Code 108-3 defines dwelling as "any house or building which is designed for and occupied exclusively as the home or residence of one or more persons permanently and defines a breezeway as a roof which may or may not be supported by columns or pillars, tied into two buildings by structural members. A 'breezeway' so constructed shall be considered as a part of the building and the two buildings which it connects shall be considered as one building"; and

WHEREAS, the applicant has failed to demonstrate compliance with the special permit criteria in 108-64.5, to wit: the bed and breakfast facility to be located within one family dwelling, accessory to a one family dwelling and maintain the character of a single-family residence; and

WHEREAS, the Town Board has searched the legislative history regarding code provision 108-64.5 particularly the issue with respect to requirement that the bed-and-

breakfast be located within a single-family residence and based upon said review together with the application and the minutes of the hearing wherein the applicant describes that the bed-and-breakfast will be located within the building containing the commercial use (tasting room); and

WHEREAS, the Town Board reviewed the above provisions of the code and determined that while the definition of breezeway permits two buildings with a roof tied into the two buildings by structural members to be considered one building, a breezeway does not convert a commercial building to a single-family residence;

NOW,THEREFORE, BE IT RESOLVED, that the Town Board denies the application of Maryann Diliberto for a special use permit to establish a bed-and-breakfast facility on premises described as Suffolk County Tax Lot Number 0600-47-2-5.5; and be it further

RESOLVED, that all Town Hall Departments may review and obtain a copy of this resolution from the E-Cabinet and, if needed, a certified copy of same may be obtained from the Office of the Town Clerk.

THE VOTE

Wooten ☒Yes ☐No Dunleavy ☐Yes ☒No
Blass ☒Yes ☐No Gabrielsen ☐Yes ☐No abstain
Cardinale ☒Yes ☐No

The Resolution Was ☒ Was Not☐
Thereupon Duly Declared Adopted

12/3/09
Special Town Board Meeting

Adopted

TOWN OF RIVERHEAD

Resolution # 1113

AUTHORIZES THE SUPERVISOR TO EXECUTE AN ADDENDUM TO CONSULTANT/PROFESSIONAL SERVICES AGREEMENT WITH SCS ENGINEERS, P.C.

Councilman Dunleavy offered the following resolution,

which was seconded by Councilman Wooten

WHEREAS, the Town of Riverhead and SCS Engineers, P.C. entered into an Agreement for work and services related to engineering services required to provide construction control quality assurance during the capping and closure of the Youngs Avenue Landfill on or about March 9, 2007; and

WHEREAS, the Town of Riverhead has rendered payment for all tasks and expenses set forth in said Agreement; and

WHEREAS, SCS Engineers, P.C. was required to and did perform additional tasks relating to the cap design of the Youngs Avenue Landfill and will be required to complete several additional tasks related to construction quality assurances and monitoring to satisfactorily complete cap and closure of the Landfill that were not anticipated by the parties, including but not limited to, unforeseen field conditions, NYSDEC (hereinafter referred to as "NYSDEC") regulatory requirements (end point sampling in north and east, VOCs and SVOCs after excavation...), Terry Contracting and Materials (hereinafter referred to as "TCM") requests for consideration of and utilization of substitutions (confinement reinforcement material, erosion control products...) together with overtime inspections, and finally, TOWN requests related to certified installation groundwater well;

NOW, THEREFORE, BE IT RESOLVED that the Town Board hereby authorizes the Supervisor to execute an addendum to the professional services agreement with SCS Engineers, P.C. in substantially the same form annexed hereto in order to provide compensation for tasks to be completed by SCS Engineers, P.C. relating to the capping and closure of the Youngs Avenue Landfill, and be it further

RESOLVED, that the Town Clerk is hereby directed to forward a copy of this resolution

to SCS Engineers, P.C., 140 Route 303, Valley Cottage, New York 10989-1923; and be it further

RESOLVED that all Town Hall Departments may review and obtain a copy of this resolution from the E-Cabinet and, if needed, a certified copy of same may be obtained from the Office of the Town Clerk.

THE VOTE

Wooten ☒Yes ☐No Dunleavy ☒Yes ☐No

Blass ☒Yes ☐No Gabrielsen ☒Yes ☐No

Cardinale ☒Yes ☐No

The Resolution Was ☒ Was Not☐
Thereupon Duly Declared Adopted

CONSULTANT/PROFESSIONAL SERVICES AGREEMENT

This Agreement made the _____ of December, 2009 between the TOWN OF RIVERHEAD, a municipal corporation organized and existing under the laws of New York, with its office located at 200 Howell Avenue, Riverhead, New York 11901 (hereinafter referred to as the "TOWN") and SCS Engineers of New York, P.C., a corporation existing under the laws of the State of New York with a principal place of business at 140 Route 303, Valley Cottage, New York 10989-1923 (hereinafter referred to as "CONSULTANT").

The TOWN and CONSULTANT entered into an Agreement for work and services related to engineering services required to provide construction control quality assurance during the capping and closure of the Young Avenue Landfill. While the TOWN has rendered payment for all tasks and direct expenses set forth in said Agreement dated January 15, 2008, CONSULTANT was required to and did perform additional acts/activities related to the cap design of the Young's Avenue Landfill and several tasks related to construction quality assurances and monitoring remain outstanding and must be performed by CONSULTANT in the future to satisfactorily complete cap and closure of the landfill. CONSULTANT requested that the TOWN amend the Agreement to provide compensation for additional tasks necessary to successfully complete cap and closure, as stated above many of which CONSULTANT has completed and others tasks that will be required in the future, all of which were not identified in the original agreement/contract for professional services as same were not anticipated by the parties, including but not limited to, unforeseen field conditions, NYSDEC (hereinafter referred to as "NYSDEC") regulatory requirements (end point sampling in north and east, VOCs and SVOCs after excavation...), Terry Contracting and Materials (hereinafter referred to as "TCM") requests for consideration of and utilization of substitutions (confinement reinforcement material, erosion control products...) together with overtime inspections, and finally, TOWN requests related to certified installation groundwater well. In addition to the above, CONSULTANT requested that the TOWN increase the amounts authorized as and for direct payments under the original agreement.

In consideration of the mutual promises herein contained, the TOWN and CONSULTANT agree as follows:

1. SCOPE OF SERVICES

As the TOWN completed all payments, including reimbursement for expenses, under the original agreement, the terms of this Agreement shall amend the original agreement in so far as additional tasks are identified and payment provisions related to additional tasks are set forth below. The TOWN and CONSULTANT agree that the TOWN shall not be responsible for any additional expenses, referred to as "direct expenses", related to tasks in the original agreement and acknowledge that no such provision for reimbursement of expenses shall be included in this addendum/amended agreement. In addition, CONSULTANT agrees that CONSULTANT shall not seek additional compensation above the amounts identified below for completion of each task, with the exception of Tasks #8 and #9 unless authorized in writing as provided in Section 9. Instead, CONSULTANT, retained to provide construction quality assurance activities, shall furnish the following services (identified in Scope of Services as "Tasks") and payment shall be made upon completion of each task or request for partial payment may be made by

CONSULTANT upon submission of detailed voucher *to be approved by TOWN (Engineering Department) indicating the percentage of the task completed . All services are to be rendered by CONSULTANT as an independent contractor and not as an employee of TOWN:

Task #1
End Point Sampling for a cost of $5,400.00:
During Progress Meeting No. 1 held at TCM's Office on February 14, 2008, C. Fritz of the NYSDEC requested end point sampling for the areas in the north and east setback zone where waste is removed for metals, VOCs and SVOCs after excavation and prior to backfilling with reclaimed sand. End point sampling and testing was not brought up by the NYSDEC during the design process and was not included in the Bid Documents or CONSULTANT construction quality assurance (CQA) original budget. CONSULTANT shall perform the following activities related to endpoint sampling for the north and east setback zone:

- Attend meeting at Stony Brook to discuss end point sampling, testing and protocol.
- Prepare End Point Sampling Protocol (request field testing only for VOC).
- Sample excavated areas for metals and perform laboratory and field analysis.
- Prepare and submit results to the NYSDEC for approval.

Task #2
Reclaimed Sand Analysis for a cost of $2,500.00:
During Progress Meeting No. 1, TCM expressed concerns over the appearance and smell of sand encountered during the excavation of test pits on the top of the reclaimed sand pile. At the request of the NYSDEC, CONSULTANT took samples and coordinated laboratory analysis of the reclaimed sand. CONSULTANT obtained available data from the TOWN of previous reclaimed sand testing and prepared a letter report discussing the previous testing, comparing the analysis results and the acceptability of the sand. CONSULTANT shall include final results in the Certification Report.

Task #3
Additional Cap Drains for a cost of $8,300.00:

For purposes of identifying unanticipated field conditions, the CONSULTANT provides the following information: In order to save material costs for the cap project, the reclaimed sand was used as the barrier protection layer of the landfill cap. The permeability of the reclaimed sand has been variable over the course of the project resulting in perched liquid in the barrier sand above the geomembrane. Due to the perched liquid CONSULTANT provided additional engineering costs related to issue of maintaining the stability of the slopes in saturated conditions and requirement for the installation of additional cap drains and revisions to the original design of the west channel in the vicinity of Manhole No. 5 and the bridge.

Seeps and sloughing of the reclaimed sand used as a barrier protection layer was observed and monitored by CONSULTANT. CONSULTANT determined that additional cap drains were required to promote drainage within the barrier layer and to prevent future maintenance issues. CONSULTANT reviewed conditions with excess moisture, revisited the drainage design and issued revised Drawing Nos. 6A, 6B and 25 to TCM on December 22, 2008 to install additional cap drains. Since the installation required excavation of existing barrier protection soils over the cap geosynthetics, additional CQA inspection was required.

Subsequent sloughing was observed during the site meeting on May 14, 2009 on the west sideslope of the landfill mound area. CONSULTANT directed TCM to install additional cap drains at that time to promote drainage within the barrier layer and to prevent future maintenance issues. Drawings were revised and CQA inspection was also required for these activities and was documented in Change Orders 5 and 6. CONSULTANT will include As-built drawings prepared by the Contractor in the Certification Report.

Task #4
West Channel Revisions for a cost of $1,700.00:
TCM observed repeated washouts at the main west channel along the main access road between Manhole 5 and the bridge area. The washout was approximately 200 feet in length and not in the steepest portion of the channel. The channel is located on the liner and the reclaimed sand is used as the barrier protection material. Similar to the seeps observed on the sideslopes the reclaimed sand repeatedly washed out the channel due to the low permeability of the reclaimed sand. The west channel detail was revised to include pipes for additional drainage within the reclaimed sand and stone pockets to release the pore pressure that could build up within the reclaimed sand. CONSULTANT provided a revised detail to TCM and has reviewed their cost proposal. CONSULTANT shall prepare As-built drawing and a change order will be prepared.

Task #5
Excessive Tire Disposal/Evaluation for a cost of $1,600.00:
TCM has encountered significantly more in situ tires than expected during contouring and waste excavation at the Youngs Avenue Landfill Closure site. During commencement of construction, it was agreed that TCM would re-landfill tires encountered by spreading out the tires beneath deeper waste fill depths to prevent tires from "floating" to the surface. As construction progressed, more tires than anticipated were found, and the areas available for excavated waste tire placement were used up. At CONSULTANT' request, TCM separated out excess tires for disposal in another manner. CONSULTANT worked with TCM and the TOWN to evaluate disposal options for the tires including off-site removal of excess tires by a shredding company (Option 1) and disposal of the tires on-site under an extended cap area (Option 2). CONSULTANT also examined the possibility of shredding the tires on-site for beneficial use.

CONSULTANT did a cost evaluation, it was determined that the removal of the tires off-site by a shredding company was the most cost effective approach. The TOWN contracted Pegasus to remove the tires. TCM has provided draft costs for the picking, stockpiling and loading the trailers to CONSULTANT for review. CONSULTANT shall perform an additional review and confirmation of costs sustained by TCM will be required.

Task #6
Other Final Closeout Items for a cost of $8,000.00:
CONSULTANT shall perform and/or prepare additional work related to inspections and submittals (CONSULTANT letter to TOWN dated September 3, 2009 provides description of inspections/submittals which are required to satisfactorily and successfully complete cap and closure). CONSULTANT has demanded that TCM address numerous items and provide submittals and paperwork for review and approval for the **final closeout** of the project all of which will require inspection, review and possible revision by CONSULTANT, including the following:

1. Payment requisition No. 10 (if required) and final payment requisition.
2. Paperwork on all outstanding change orders including:
    a. Additional tire stockpiling, loading and hauling;
    b. Chenango remobilization;
    c. Stormwater management items;
    d. Waste relocation on southwest cap extension;
    e. Drill holes in manholes 3 and 4;
    f. West Side Channel
    g. Additional screening vegetation in southeast corner.
3. Request for Substantial Completion, including contractors punch list, warranties, record drawings, final cleaning in accordance with Specification Section 01700-1.4B.1.
4. Fence Tie certification.
5. Submittal for Asphalt mix.
6. Additional submittal information for gas monitoring probe and groundwater monitoring well installation.

Task #7
LFG Probe CQA Oversight for a cost of $7,000.00:
To date, the LFG monitoring probes have not been installed. This work requires CQA oversight to verify locations, depths and construction details. CONSULTANT expected that this work would have been completed by TCM during the time when CONSULTANT had full-time, on-site CQA inspectors at the Landfill (i.e., between January, 2008 and January, 2009). This work has not been completed or scheduled to date. CONSULTANT anticipates that additional CQA inspection time to be expended by CONSULTANT to perform the CQA activities related to the installation of the LFG probes. While analysis of design was performed for the confinement reinforcements slope stabilization on the east slope, the need for the confinement reinforcement slope stabilization was later eliminated due to the acquisition of a parcel of property by the TOWN in the vicinity of the east property line. The elimination of the confinement reinforcement resulted in a savings to the TOWN of $44,000.00. The parcel acquisition by the TOWN was a lengthy process and confirmation of the acquisition occurred in spring of 2009. CONSULTANT issued a revised drawing to eliminate the confinement reinforcement on April 29, 2009.

Task #8
Geologist for Groundwater Well CQA for a cost of $15,000.00:
CONSULTANT's proposal dated November 13, 2007 specifically indicates that CONSULTANT did not include costs for a geologist to certify installation of a groundwater well. During a phone call with the TOWN Engineer, the Engineer indicated that it would be better for CONSULTANT to hire FPM as the geologist. CONSULTANT has spoken with K. Loyst of FPM who has submitted a cost to CONSULTANT to perform the requirmenets of Specification Section 02620. The estimate provided is the worst case conditions for installation of well over 300 feet and development. The estimate is provided in Attachment 3. CONSULTANT agrees that payment for this task may not exceed $15,000.00

Task #9
Mediation Assistance for a cost of *$15,000.00:
CONSULTANT has prepared and submitted numerous documents to TCM and the TOWN regarding Payment Item No. 8 for the waste excavation and backfill of the north and east end

setback zone. The volumes for this work and the payment items have been under disagreement with TCM for some time. CONSULTANT will continue to provide assistance to the TOWN as requested to resolve this issue. *CONSULTANT shall receive compensation for this task "mediation assistance" in the event that the Town is unable to resolve issues regarding work performed by TCM and Town requests assistance. CONSULTANT shall only perform this task after receipt of written request for preliminary mediation assistance (contemplation of mediation or alternate resolution of disputed issues) or mediation assistance from the TOWN. Upon receipt of a request for preliminary mediation assistance (as described above) or mediation assistance, CONSULTANT shall provide the following:

- Conference with Town personnel for purposes of overview of disputed items, review of documents relevant to disputed items, and evaluation or recommendation of Town position relative to resolution (This list of items is intended to outline services related to preliminary mediation assistance);
- Two days of document preparation by a staff level engineer;
- One day each of document preparation for the project manager and project director (L. Wilkinson and P. Kuniholm, respectively);
- One day each mediation preparation for the project manager and project director with TOWN's legal counsel prior to mediation;
- Two days each of mediation hearings for the project manager and project director;
- Expenses for travel to New York City for two days of mediation hearing.

In the event that TOWN shall require additional mediation services, the TOWN and CONSULTANT agree to negotiate and adjust compensation for such additional services.

Task #10
Certification Report for a cost of $10,000.00:

Due to additional regulatory requirements and unanticipated field conditions described under Tasks 1 through 5, additional information, write-ups, design revisions and record drawings are required to be incorporated into the Certification Report. The budget for this task includes the incorporation of these documents into the Final Certification Report, for submittal to the NYSDEC.

2. TERM OF AGREEMENT

It is agreed and understood by and between TOWN and CONSULTANT that time is of the essence therefore, this Agreement shall commence on the date the Agreement is fully executed by the TOWN and CONSULTANT. It is further agreed and understood by and between TOWN and CONSULTANT that the tasks identified by the CONSULTANT and set forth above under the heading "Task#" are intended to reflect all tasks known by CONSULTANT to be required by NYSDEC at the time of this Agreement that are required to satisfactorily complete cap and closure of the landfill. The term of the Agreement shall include all tasks set forth above and such others related to each task or incorporated by description of the task until submission of the Final Certification Report and approval/acceptance of the Final Certification Report by the NYSDEC.

3. PAYMENT

For these services, TOWN will pay CONSULTANT a fee for the completion of each task or partial payment may be made by the TOWN to CONSULTANT upon submission of detailed

voucher *to be approved by TOWN (Engineering Department), indicating the percentage of the task completed as set forth in the "Scope of Services". CONSULTANT shall submit a separate invoice upon the completion of each task, or percentage of the task completed identified in the "Scope of Services" signed by CONSULTANT, or if this Agreement is with a firm, an officer or authorized representative of the firm: "I hereby certify, to the best of my knowledge and belief, that this invoice is correct, and that all items invoiced are based upon costs incurred or services rendered consistent with the terms of the professional services agreement." CONSULTANT shall not submit an invoice for Task #10 until all other tasks in the outlined in the Scope of Services are completed with the exception of Task #9. CONSULTANT shall only receive compensation for Task #9 "Mediation Assistance" in the event that the Town requests preliminary mediation assistance (contemplation of mediation or alternate resolution of disputed issues) or mediation assistance from CONSULTANT.

4. RIGHTS TO DOCUMENTS OR DATA

With the exception of reports, documents or data required to be provided to review/approval agencies or TCM, all information and data, regardless of form, generated in the performance of, or delivered under Task #9 of this Agreement, as well as any information provided to CONSULTANT by TOWN for Task #9, shall be and remain the sole property of TOWN. CONSULTANT shall keep all such information and data in confidence and not disclose or use it for any purpose other than in performing this Agreement, except with TOWN's prior written approval. In the event that the legal right in any data and information generated in the performance of Task #9 of this Agreement does not vest in TOWN by law, CONSULTANT hereby agrees and assigns to TOWN such legal rights in all such data and information. These obligations shall survive the termination of this Agreement.

5. PUBLICITY

CONSULTANT shall not, without the prior written consent of TOWN, in any manner advertise or publish the fact that TOWN has entered into this Agreement with CONSULTANT, with the exception of TCM and NYSDEC. CONSULTANT shall not, without the prior written consent of the TOWN, provide, release or make available for inspection any documents, data, written material of any kind without the prior written consent of at least three members of the TOWN board or by resolution of the TOWN Board, with the exception of documents, data and reports required to be provided to TCM, NYSDEC, or such other entity or agency to satisfactorily complete cap and closure and obtain approval for Final Certification Report.

6. ASSIGNMENT AND SUBCONTRACTING

Performance of any part of this Agreement may not be subcontracted nor assigned, without the prior written consent of at least three members of the TOWN Board or by resolution of the TOWN Board with the exception of Task #8. CONSULTANT is responsible for all work performed by subcontractor and ensures compliance with all terms of this agreement and all state and federal laws.

7. TERMINATION

This Agreement may be terminated at any time by either party upon 30 days written notice to the other party. In the event of such termination, TOWN shall have no further obligation to CONSULTANT except to make any payments for completion of all or portions of task work, which may have become due under this Agreement.

8. RECORDS

CONSULTANT shall keep accurate records of the time spent in the performance of services hereunder. The TOWN shall, until the expiration of seven years after final payment under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers and records of CONSULTANT involving transactions related to this Agreement.

9. CHANGES

The TOWN, by resolution of the TOWN Board or written request by at least three members of the TOWN Board, within the general scope of this Agreement, may, at any time by written notice to CONSULTANT, issue additional instructions, require additional services or direct the omission of services covered by this Agreement. In such event, there will be made an equitable adjustment in price and time of performance, but any claim for such an adjustment must be made within 15 days of the receipt of such written notice. Payment will be made to CONSULTANT for all tasks completed or partially completed as described above. In the event that the CONSULTANT performs mediation assistance to the Town as identified in Task #9 and determines that a change order is required, CONSULTANT shall obtain written approval of the TOWN, by resolution or written consent of at least three members of the TOWN Board, and if the change shall require the payment of additional compensation, CONSULTANT must obtain the written approval of three members of the TOWN Board or resolution of the TOWN Board for the additional compensation prior to commencement of work regarding the change order. It is agreed and understood that no oral agreement, conversation, or understanding between the CONSULTANT and the TOWN, its departments, officers, agents and employees shall effect or modify any of the terms or obligations of this Agreement or schedules annexed hereto and made a part hereof.

10. NOTICES

Any notice shall be considered as having been given: (i) to TOWN of Riverhead if mailed by certified mail, postage prepaid to TOWN of Riverhead, Attention: Bill Rothaar, Financial Administrator for the TOWN of Riverhead, 200 Howell Avenue, Riverhead, New York 11901; or (ii) to CONSULTANT if mailed by certified mail, postage prepaid to SCS Engineers, 140 Route 303, Valley Cottage, New York 10989.

11. COMPLIANCE WITH LAWS

CONSULTANT and CONSULTANT's subcontractor shall comply with all applicable federal, state and local laws and ordinances and regulations in the performance of its services under this Agreement. CONSULTANT will notify TOWN immediately if CONSULTANT's work for TOWN becomes the subject of a government audit or investigation. CONSULTANT will promptly notify TOWN if CONSULTANT is indicted, suspended or debarred. CONSULTANT represents that CONSULTANT has not been convicted of fraud of any other felony arising out of a contract with any local, state or federal agency. In carrying out the work required hereunder, CONSULTANT agrees not to make any communication to or appearance before any person in the executive or legislative branches of the local, state or federal government for the purpose of influencing or attempting to influence any such persons in connection with the award, extension, continuation, renewal, amendment or modification of any contract or agreement. CONSULTANT may perform professional or technical services that are rendered directly in the preparation, submission or negotiation activities preceding award of a TOWN agreement/contract or to meet requirements imposed by law as a condition for receiving the award but only to the extent specifically detailed in the statement of work. Professional and

technical services are limited to advice and analysis directly applying CONSULTANT's professional and technical discipline.

12. INSURANCE, INDEMNITY AND LIABILITY

CONSULTANT shall carry Comprehensive General Liability Insurance and, if applicable, worker's compensation insurance. CONSULTANT hereby indemnifies and holds the TOWN, its departments, officers, agents and employees, harmless against any and all claims, actions or demands against TOWN, its departments, officers, agents and employees and against any and all damages, liabilities or expenses, including counsel fees, arising out of the negligent acts or omissions of CONSULTANT, CONSULTANT's subcontractor or agents under this Agreement.

13. CONFLICT OF INTEREST

CONSULTANT hereby represents and covenants that neither it nor any of its employees or representatives has or shall have, directly or indirectly, any agreement or arrangement with any official, employee or representative of the TOWN of Riverhead which any such official, employee, representative shall receive either directly or indirectly anything of value whether monetary or otherwise as the result of or in connection with any actual or contemplated application before any department of the TOWN, contract with the TOWN for sale of any product or service. CONSULTANT further represents and covenants that neither it nor any of its employees or representatives has offered or shall offer any gratuity to the TOWN, its officers, employees, agents or representatives with a view toward obtaining this Agreement or securing favorable treatment with respect thereto. CONSULTANT further represents that it will not engage in any activity which presents a conflict of interest in light of its relationship with TOWN.

14. DISCLOSURE

The TOWN shall have the right, in its discretion, to disclose the terms and conditions of this Agreement (as it may be amended from time to time), including but not limited to amounts paid pursuant hereto, to agencies of the local, state and federal government.

15. DISPUTES

If CONSULTANT fails to perform any of its obligations hereunder in accordance with the terms hereof, then after reasonable notice to CONSULTANT not to exceed thirty (30) days, and an opportunity for CONSULTANT to cure such failure (except in case of emergency), any dispute arising under this Agreement which is not settled by Agreement of the parties may be settled by appropriate legal proceedings.

16. ADDITIONAL PROVISIONS

SCS shall perform its services in accordance with the professional standards applicable to the services provided (i.e. engineering, planning, consulting, etc.), at the time such services are rendered.

The parties agree that SCS's liability under this agreement and for the project shall be limited to 2,000,000.00 or the amount of SCS's fees hereunder, whichever is greater.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

TOWN OF RIVERHEAD	SCS ENGINEERS OF NEW YORK, PC
_____	_____
By: Philip J. Cardinale, Supervisor	By:

Attachment 1
Engineering Outside the Original Scope
Payment Schedule for SCS Contract Addendum 8 (November 2009)

Description	Payment Method	Cost
NYSDEC Regulatory Requirements		
1. End Point Sampling	LS	$5,400
2. Reclaimed Sand Sampling and Evaluation	LS	$2,500
Unanticipated Field Conditions – Reclaimed Sand Use		
3. Additional Cap Drains	LS	$8,300
4. West Channel Revisions	LS	$1,700
Unanticipated Field Conditions – Other		
5. Excessive Tires (estimate)	LS	$1,600
6. Other Final Closeout Items (estimate)	LS	$8,000
7. LFG Probe CQA oversight (estimate)	LS	$7,000
Town Requested Addition		
8. Geologist for Groundwater Well CQA (estimate)	LS	$15,000
9. Mediation Assistance (estimate)	LS	$15,000
Scope of Work Items		
10. Certification Report	LS	$10,000
	Contract Addendum Total	**$74,500**

LS = Lump Sum

Attachment 2

Environmental Consultants

140 Route 305
Valley Cottage, NY 10989-1925
www.scsengineers.com

845 353-5727
FAX 845 353-5721

SCS ENGINEERS, PC

September 3, 2009
File Number 13206007.01

Kenneth Testa, PE
Town Engineer
Town of Riverhead, Engineering Department
200 Howell Avenue
Riverhead, New York 11901

Subject: Remaining Items for Project Closeout and Certification
Youngs Avenue Landfill Closure
Riverhead, New York

Dear Ken:

SCS Engineers, PC (SCS) has reviewed the outstanding items required to close out the subject project construction and to prepare the construction quality assurance (CQA) certification report for submittal to the New York State Department of Environmental Conservation.

PROJECT CONSTRUCTION

Based on discussions with Terry Contracting and Materials (TCM), the following construction items need to be completed. We note that these items will be verified during our site visit on September 9, 2009.

1. Asphalt aprons and castings at catch basins.
2. Asphalt parking areas and pathways.
3. Safety grates at downchute inlets.
4. Fittings to plumb horizontal collector risers to vertical.
5. Installation of gas monitoring probes, concrete pads, covers, keys to Town.
6. Installation of groundwater monitoring wells, development, cover, keys to Town.
7. Keys for all gates, locks etc to Town.
8. Final grading, contouring, compaction of all roads.
9. Fill in uneven spots and ruts in topsoil.
10. Other punch list items (see list attached).
11. Demobilization.

FINAL CLOSEOUT DOCUMENTATION

The following submittals and paperwork are required from TCM for review and approval for the final closeout of the project:

1. Payment requisition No. 10 (if required) and final payment requisition
2. Paperwork on all outstanding change orders including.

a. Additional tire stockpiling, loading and hauling
b. Chenango remobilization
c. Stormwater management items
d. Waste relocation on southwest cap extension
e. Drill holes in manholes 3 and 4

3. Request for Substantial Completion including contractors punch list, warranties, record drawings, final cleaning in accordance with Specification Section 01700-1.4B.1
4. Resolution on the payment for the North and West waste relocation or mediation.
5. Fence Tie certification.
6. Submittal for Asphalt mix.
7. Additional submittal information for gas monitoring probe and groundwater monitoring well installation.

CERTIFICATION REPORT DOCUMENTATION

The following submittals and paperwork items are required from TCM to complete the CQA certification report:

1. Final Geomembrane submittal package from Chenango including warranties.
2. Final Soils Testing Report from Universal.
3. Final As-built drawings from LKMA.
4. Final planting and vegetation maintenance plan from LKMA.
5. Boring logs and construction logs for gas monitoring probes and groundwater monitoring well upon completion.

ITEMS REQUIRED BY THE TOWN

The following items should be provided by the Town to SCS in order to complete final closeout of the project:

1. Final invoices from Pegasus.
2. Coordination of last trailer from Pegasus.
3. Cost of additional vegetation to be installed by TCM in southeast corner.

SCS OUTSTANDING WORK

In additional to the review and coordination of the majority of the items required and requested above, SCS' outstanding work is listed below. We note that most of this work cannot be completed until the items above are submitted or completed.

1. Final work and punch list inspection(s).
2. CQA inspection of groundwater monitoring well and gas probe installation.
3. Preparation of final change order and final billing.
4. Final preparation and submittal of CQA certification report.
5. Final preparation and submittal of Post Closure Operation Maintenance and Monitoring Plan

We note that additional items may arise prior to the completion of work. Please review and call with any questions.

Very truly yours,

Lisa Wilkinson, PE
Project Manager

Peter F. Kundholm, PE
Vice President
SCS ENGINEERS, PC

PUNCH LIST As of 8/3/2000
YOUNG'S AVENUE LANDFILL CLOSURE
RIVERHEAD, NEW YORK

No.	Bid Item Description	Remaining Work	Completed per TCM[1]	Inspected/ Approved by SDS
1	Mob/Demob	Demobilization.		
2	Surveying	a. As-bullite.		
3	Erosion/Sed Control	Pro-rated on monthly basis. Need to check site at least once a week and after each precipitation event.		
5	Youngs Ave SW Maint	a. Asphalt aprons at catch basins.		
		b. Install castings.		
		c. final record drawing		
6	NE Setback Zone Waste	payment resolution		
9	Gas Venting	survey for payment		
10	Geomembrane	a. survey for payment		
		b. documentation from installer and as built.		
		c. warranty information.		
11	Anchor Trench	survey for payment		
12	Barrier Protection Layer (A)	Tie in at expansion of south west toe of slope, restoration of erosion.	x	
13	Barrier Protection Layer (B)	restoration of erosion.	x	
15	Furnish/Install Topsoil w/in Cap	a. southwest slope between station 18 + 00 - 23 + 00.	x	
		b. area of expansion after final install.	x	
		c. survey for payment		
		d. Submittals for final mix and maintenance.		
	added per site visit 6/25/09	Repair ruts and uneven surface	x	
16	Furnish/Install Topsoil outside Cap	complete final areas	x	
17	Geocomposite	a. install composite and stone rip west of Expansion.	x	
		b. survey for payment		
18	Downchutes	a. Stone at end of downchute outfalls #2, 3, 6.	x	
		b. Safety grates at inlets		
		C. Relevel manhole at Downchute No. 3		OK
		c. drill holes in manholes		
	added per site visit 6/25/09	rip rap and standing water at MH 5		
19	Diversion Swales	a. Install 6" perforated pipe through rip rap at all inlets to downchutes	x	
		b. survey for payment		
20	6" Cap Drains	a. survey for payment		
	added per site visit 6/25/09	cap drain at main access road	x	
21	Gas Vents with Boots	install Geosenecks.	x	
		install gasionite seal	x	
		survey location for payment		
22	Horizontal gas trenches	a. geosenecks all items.	x	
		b. survey for payment		
	added per site visit 6/25/09	fittings to plumb risers to vertical		
23	Perimeter Gas Probes	a. submittals	partial	
		b. installation		
		c. well logs		
		d. survey for payment		
		e. install protective casing		
		keys to Town		
24	GW Monitoring Wells	a. submittals	partial	
		b. install deep well at Young's Ave.		
		c. install well protection as per spec. for both		
		d. survey for payment		
		e. well log		

[illegible]

No.	Bid Item Description	Remaining Work	Completed per TCM''	Inspected/ Approved by SCS
		f. extend and repair bedrock for existing walls 112/33 and 34		
		Keys to Town		
25	Seed, EC with Cap	c. Install permanent seed.	x	
		b. wildflower	x	
		c. Complete erosion control and repairs	x	
26	Seed, EC outside Cap	a. Install permanent seed.	x	
		b. seed rebuilt embankment on lower west sideslope	x	
27	Mill Road and Access road	c. Complete erosion control and repairs	x	
		a. Re-grade and compact.		
		b. establish crown and define shoulders		
		c. Complete from 19 + 00 to 26 + 00. Install RCA on maintenance area.	x	
		d. Install RCA and fabric on 16' access road 0 - 10 + 76.	x	
28	RCA on Perimeter Roads	a. Install RCA on all off cap roads.	x	
		b. fabric east, west and south	x	
29	Drainage channels	a. Install 8' channel adjacent to main road 19 + 00 to 26 + 00.	x	
		b. Standing water and silt in west channel		
		c. Standing water and silt in other locations		
		d. Repair vegetation in channels, select locations		
		e. clean silt from west channel culvert into Basin 1		
	added per approval	repairs to west channel at bridge	x	
30	8' Walking Path	a. Re-grade RCA; roll and compact.		OK
		b. Complete from 19 + 00 to bridge.	x	
		b. top dress		OK
31	Walking Path with Channel	a. Re-grade RCA; roll and compact		OK
		b. top dress		OK
		c. complete last 76' south of bridge	x	
		d. Standing water and silt in channels, select locations		
32	Guide rail, gates, fencing	a. complete fencing	x	
		b. install farm fence gates (2)		
		c. install main road gate		
		d. install west access road gate		
		e. install bollard		
	added per site visit 6/26/08	fence to certification submittal		
		Keys to Town		
33	Slope Stabilization	Not required		
34	Walking Bridge	a. above grade items	x	
		b foundation / below grade items	x	
37	Add Unscreened RS Backfill	As needed.		
38	Add Screened RS Backfill	As needed.		
39	Leachate Seep Repair	As needed.		
40	Asphalt Walking Path	a. Submittal on file		
		b. Complete asphalt to parking area (per CO 3)		
	added per site visit 6/26/08	asphalt paths		
41	Credit for Reduced Volume	Not needed.		
42	Increase Vol under cap	Provide survey for final payment		
	Additional Items			
	Tire Shredding/hauling/trailers	a. finalize cost		
		b. complete loading trailers (working Progress to remove last trailer)		
	Stormwater Maint at West Site Use Relocation	a. (required to) comments regarding cost		

No.	Bid Item Description	Remaining Work	Completed per TCM(1)	Inspected/ Approved by SCS
		b. Additional rip rap in swale at inside turn at west side access road		
	Waste relocation under SW cap extension	provide final cost		
	Credit - Type I ECM BC250 for F300	provide cost		
	Credit - Topsoil Sampling	provide cost		
	Relocate Compost area		x	
	Topsoil and seed area downslope of the west side access road	Town provided approvals	x	

(1) TCM verbally indicated work has been completed but has not been inspected or approved by SCS

OUTSTANDING SUBMITTALS (09/3/2009)
YOUNG'S AVENUE LANDFILL CLOSURE
RIVERHEAD, NEW YORK

Specified in Section	Description	Submitted
01050 Part 3.2	Surveys and record drawings	
01440 Part 3.3J	CQC documentation reports	
01700 Part 1.3A	Equipment warranties and inspection certificates.	
02223 Part 1.5C	CQC final testing report, signed and sealed by NYS PE, including all soils testing, field density test reports	
02223 Part 4.2	Geotextiles and : permeability	
02232 Part 3.1	Placement option, material option, and/or material type proposed	
02513 Part 2.1	Asphalt mix	
02001 Part 1.3B	Concrete mix report	
02801 Part 1.3C	Sketches of locations	
02810 Part 1.2A	Manufacturer's information, certification for bentonite	
02810 Part 1.2B	boring logs, construction logs and abandonment logs	partial
02810 Part 3.1E	surveyed location and elevation of all probes and vents	
02820 Part 1.2A	manufacturer's information, certification of bentonite, grout, etc.	partial
02820 Part 1.2B	boring logs, construction logs and abandonment logs	
02820 part 3.1E	surveyed location and elevation of wells	
02720 Part 1.3A	Certificate of compliance	
02720 part 1.2B	Drawtubile final survey drawings	
02720 Part 1.2C	Certificate of compliance	
02720 Part 1.3A	Catalog cuts, specifications, layout drawings	
02831 Part 1.3A	Fence, gates-certification for ties	
02922 Part 1.4	need additional information per letter dated 4/8/08	
02922 Part 1.4E, 3.12	Submittals for project closeout-including record drawings, warranty, subgrade acceptance forms, etc	
02922 Part 3.6D	lab test results	
02930 Part 1.3	Geocomposite panel layout drawing	
02930 Part 1.3	Record drawings and warranty	
02936 Part 1.5A	manufacturer and suppliers specifications	
02936 Part 1.5B	certification from seed vendors	
02936 Part 1.5C	operation and maintenance data	
02936 Part 1.5D	Planting and maintenance plan	
08100 Part 1.3	Final design and drawings and LVL material submittals	
15050 Part 1.2	Certificates of compliance on materials furnished	

Attachment 3

FPM group — Engineering and Environmental Science

FPM Group, Ltd.
FPM Engineering Group, P.C.
Ferrecchi Fanning, Phillips and Mainer

CORPORATE HEADQUARTERS
[illegible]
[illegible]
[illegible]

VIA EMAIL

August 21, 2009

Ms. Lisa K. Wilkinson P.E.
Senior Project Engineer
SCS Engineers, P.C.
140 Route 303
Valley Cottage, NY 10989

Re: **Proposal for Well Installation and Development Oversight**
Youngs Avenue Landfill
Riverhead, New York

Dear Ms. Wilkinson:

FPM Group (FPM) has prepared this proposal for providing oversight services during the installation and development of one groundwater monitoring well at the above-referenced facility. These services will be provided on behalf of the Town of Riverhead. Based on the provided information, our understanding of the scope of work is as follows:

- FPM will review the well installation and development specifications for this project provided by SCS Engineers, P.C. (SCS). In the event that the scope of work in the specifications differs significantly from that described below, we will advise SCS and prepare an additional cost proposal. FPM will also review the site-specific Health and Safety Plan (HASP) provided by SCS such that we may provide appropriate personal protective equipment (PPE) for our onsite representative;

- FPM will provide an experienced hydrogeologist with appropriate PPE to observe the well installation and development procedures onsite. For the proposed 305-foot-deep well installed with a mud rotary rig, we estimate that well installation and development should be completed within two weeks. The FPM hydrogeologist may advise the driller or other personnel regarding well installation or development observations or procedures. However, adherence to the well installation and development specifications is the responsibility of others;

- Following the completion of field activities, FPM will prepare a letter report of our observations. This report will be provided to SCS and the Town of Riverhead.

FPM proposes to perform this project on a time-and-materials basis for an estimated fee of $15,000 (i.e., two-week field duration). We can commence work upon receipt of a signed contract. Attached please find our general terms and conditions.

If you have any questions, please do not hesitate to call us at (631) 737-8200. We would appreciate the opportunity to discuss this proposal with you to best meet your needs.

Very truly yours,

Stephanie O. Davis
Senior Hydrogeologist
Department Manager

Kevin F. Loyst, P.E.
Senior Engineer
Department Manager

AGREED AND ACCEPTED

Accepted for FPM Group

Dr. Kevin J. Phillips, P.E.

Accepted for _____

Signature

Print Name and Title

Date

Corporation or Business Name

Corporation or Business Address

Incorporated in (State)

SOD/KFL:tec
Attachments

12/3/09 Adopted

TOWN OF RIVERHEAD

Resolution # 1114

AUTHORIZES THE SUPERVISOR TO EXECUTE A RETAINER AGREEMENT WITH MARY C. HARTILL, ESQ. OF THE LAW FIRM OF SALADINO & HARTILL, LLP FOR LEGAL SERVICES FOR THE YEAR 2009/2010(RIVERHEAD YOUTH COURT)

Councilman Wooten offered the following resolution,

which was seconded by Councilman Gabrielsen

WHEREAS, Mary C, Hartill, Esq. of the Law Firm of Saladino & Hartill, LLP had submitted a proposal to the Town Board to enter into a one (1) year agreement with the Town of Riverhead in connection with her services as Legal Consultant for the Riverhead Youth Court Program,

NOW THEREFORE BE IT HEREBY RESOLVED, that Mary C, Hartill, Esq. of the Law Firm of Saladino & Hartill, LLP is hereby appointed to act as Legal Consultant for the Riverhead Youth Court Program; and be it further

RESOLVED, that the Riverhead Town Board hereby approves the attached Retainer Agreement from the Law Firm of Saladino & Hartill, LLP; and be it further

RESOLVED, that the Riverhead Town Board hereby authorizes the Supervisor to execute the attached Retainer Agreement; and be it further

RESOLVED, that the Town Clerk is hereby directed to forward a copy of this resolution to the Law Firm of Saladino & Hartill, LLP, 431 Griffing Avenue, Riverhead, New York, 11901; and be it further

RESOLVED, that all Town Hall Departments may review and obtain a copy of this resolution from the E-Cabinet and, if needed, a certified copy of same may be obtained from the Office of the Town Clerk.

THE VOTE

Wooten ☒Yes ☐No Dunleavy ☒Yes ☐No
Blass ☒Yes ☐No Gabrielsen ☒Yes ☐No
Cardinale ☒Yes ☐No

The Resolution Was ☒ Was Not☐
Thereupon Duly Declared Adopted

X:\12-3-09 Special\1114 AUTHORIZES THE SUPERVISOR TO EXECUTE A RETAINER AGREEMENT WITH MARY C. HARTILL, ESQ. OF THE LAW FIRM OF SALADINO & HARTILL, LLP FOR LEGAL SERVICES FOR THE YEAR 2009 2010 RIVERHEAD YOUTH COURT.doc

RETAINER AGREEMENT

This writing will memorialize the understanding between The Town of Riverhead and Mary C. Hartill, Saladino & Hartill, LLP., hereinafter referred to as "the law firm," confirming that you have retained this firm to represent you in the matter of Legal Consultant for Youth Court Training.

It is agreed that the Town of Riverhead will pay the firm a fee of $160.00, per hour for training and lectures for the Riverhead Youth Court Program not to exceed a total of twelve (12) hours.

You acknowledge that the hourly rates apply to all time expended on your matter, including, but not limited to, office meetings and conferences, telephone calls and conferences, either placed by or to you, or otherwise made or had on your behalf or related to your matter, preparation, review and revision of correspondence, pleadings motions, disclosure demands and responses, affidavits and affirmations, or any other documents, memoranda, or papers relative to your matter, legal research, court appearances, conferences, file review, preparation time, travel time, and any other time expended on your behalf.

The term of this retainer shall be for one year, commencing October 1, 2009, and continuing through and including September 30, 2010.

Kindly indicate your understanding and acceptance of the above by signing this document below where indicated.

You acknowledge receiving a duly executed duplicate original of this agreement. . I look forward to being of service to you in connection with this matter.

DATE: October . 2009

Mary C Hartill

Town of Riverhead Official

Mary C. Hartill

12/03/09

Adopted

TOWN OF RIVERHEAD

Resolution # 1115

RIVERHEAD SEWER DISTRICT BUDGET ADJUSTMENT

Councilman Gabrielsen offered the following resolution,

which was seconded by Councilwoman Blass

NOW THEREFORE BE IT RESOLVED, that the Supervisor be, and is hereby, authorized to establish the following budget adjustment:

		FROM	TO
114.081300.524175	Trucks	13,300	
114.081300.547504	Sanitation Disposal	15,700	
114.081300.543504	Engineering		29,000

RESOLVED, that all Town Hall Departments may review and obtain a copy of this resolution from the E-Cabinet and, if needed, a certified copy of same may be obtained from the Office of the Town Clerk.

THE VOTE

Wooten ☒Yes ☐No Dunleavy ☒Yes ☐No
Blass ☒Yes ☐No Gabrielsen ☒Yes ☐No
Cardinale ☒Yes ☐No

The Resolution Was ☒ Was Not☐
Thereupon Duly Declared Adopted