



**BOARD OF SUPERVISORS AGENDA ITEM REPORT**  
**CONTRACTS / AWARDS / GRANTS**

☐ Award ☒ Contract ☐ Grant

Requested Board Meeting Date: 07/07/20

or Procurement Director Award ☐

*\* = Mandatory, information must be provided*

**\*Contractor/Vendor Name/Grantor (DBA):**

Blue Source, LLC (Headquarters: Cottonwood Heights, UT)

**\*Project Title/Description:**

Renewable Natural Gas Management Services

**\*Purpose:**

Award: Master Agreement No. MA-PO-20-220. This Master Agreement is for an initial term of five (5) years to provide revenue in the estimated annual amount of \$500,000.00, therefore \$2,500,000.00 in the initial five (5) year period, and includes three (3) one-year renewal options.

Administering Department: Regional Wastewater Reclamation

**\*Procurement Method:**

Pursuant to Pima County Procurement Code 11.12.020, Competitive Sealed Proposals, Solicitation No. RFP-PO-1900008 was conducted. Four (4) responses were received. Three (3) responses attained a high enough score to be elevated to interviews. Award is to the responsive and responsible respondent submitting the highest scoring proposal.

PRCUID: 337679

Attachments: Notice of Recommendation for Award and Professional Services Contract.

**\*Program Goals/Predicted Outcomes:**

Blue Source, LLC and the Regional Wastewater Reclamation Department are partnering in a new venue to capture, refine and distribute the biogas that is released from the treatment of biosolids at the Tres Rios Wastewater Reclamation Facility (WRF). This agreement defines the marketing approaches and criteria in order to manage production and maximize the revenue generated by this project.

**\*Public Benefit:**

The Renewable Natural Gas (RNG) will be marketed under the auspices of the Clean Air Act and the Environmental Protection Agency. RNG is provided to the market as a lower carbon source of transportation fuel, thus reducing greenhouse gases and air pollution. Providing RNG to the market provides a new revenue stream to RWRD, allowing the Department to avoid or reduce wastewater user fees.

**\*Metrics Available to Measure Performance:**

- 1) The number of Therms (measure of energy) produced.
- 2) The net income generated by the sale of this RNG and its Environmental Attributes.

**\*Retroactive:**

No

TO: CORB 6/24/20

VERS: 1

Pgs: 12

**Contract / Award Information**

Document Type: MA Department Code: PO Contract Number (i.e., 15-123): 20-220  
 Commencement Date: 07/07/20 Termination Date: 07/06/25 Prior Contract Number (Synergen/CMS): \_\_\_\_\_  
☐ Expense Amount: \$ \_\_\_\_\_ ☒ Revenue Amount: \$ 2,500,000.00

**\*Funding Source(s) required:**

Funding from General Fund? ☐ Yes ☒ No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_  
 Contract is fully or partially funded with Federal Funds? ☐ Yes ☒ No  
**If Yes, is the Contract to a vendor or subrecipient?** \_\_\_\_\_  
 Were insurance or indemnity clauses modified? ☒ Yes ☐ No  
*If Yes, attach Risk's approval.*  
 Vendor is using a Social Security Number? ☐ Yes ☒ No  
*If Yes, attach the required form per Administrative Procedure 22-10.*

**Amendment / Revised Award Information**

Document Type: \_\_\_\_\_ Department Code: \_\_\_\_\_ Contract Number (i.e., 15-123): \_\_\_\_\_  
 Amendment No.: \_\_\_\_\_ AMS Version No.: \_\_\_\_\_  
 Commencement Date: \_\_\_\_\_ New Termination Date: \_\_\_\_\_  
 Prior Contract No. (Synergen/CMS): \_\_\_\_\_  
☐ Expense or ☐ Revenue ☐ Increase ☐ Decrease Amount This Amendment: \$ \_\_\_\_\_  
 Is there revenue included? ☐ Yes ☐ No If Yes \$ \_\_\_\_\_

**\*Funding Source(s) required:**

Funding from General Fund? ☐ Yes ☐ No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_

**Grant/Amendment Information** (for grants acceptance and awards) ☐ Award ☐ Amendment

Document Type: \_\_\_\_\_ Department Code: \_\_\_\_\_ Grant Number (i.e., 15-123): \_\_\_\_\_  
 Commencement Date: \_\_\_\_\_ Termination Date: \_\_\_\_\_ Amendment Number: \_\_\_\_\_  
☐ Match Amount: \$ \_\_\_\_\_ ☐ Revenue Amount: \$ \_\_\_\_\_

**\*All Funding Source(s) required:**

**\*Match funding from General Fund?** ☐ Yes ☐ No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_  
**\*Match funding from other sources?** ☐ Yes ☐ No If Yes \$ \_\_\_\_\_ % \_\_\_\_\_  
**\*Funding Source:** \_\_\_\_\_

**\*If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?** \_\_\_\_\_

Contact: Keith E. Rogers KE. Rogers 06/22/20  
 Department: Procurement May 10 6/22/2020 Telephone: 724-3542  
 Department Director Signature/Date: \_\_\_\_\_ 6/24/2020  
 Deputy County Administrator Signature/Date: \_\_\_\_\_  
 County Administrator Signature/Date: C. R. Dubeau 6/24/20  
 (Required for Board Agenda/Addendum Items)



**NOTICE OF RECOMMENDATION FOR AWARD**

Date of Issue: June 15, 2020

The Pima County Procurement Department hereby issues formal notice to respondents to Solicitation No. RFP-PO-1900008 for Renewable Natural Gas Management Services that the following listed respondent will be recommended for award as indicated below. The award action is scheduled to be performed by the Board of Supervisors on or after June 23, 2020.

Award is recommended to the highest scoring proposal.

AWARDEE NAME  
Blue Source, LLC

ESTIMATED ANNUAL REVENUE AMOUNT  
\$500,000.00

**OTHER RESPONDENT NAMES**

Kinect Energy, Inc.  
The Energy Authority, Inc.  
Trillium Transport Fuels, LLC, dba Trillium

Issued by: Keith E. Rogers, CPPB; Procurement Officer

Telephone Number: 520-724-3542

This notice is in compliance with Pima County Procurement Code §11.12.010(C) and §11.20.010(C).

Copy to: Pima County SBE via e-mail at SBE@pima.gov

MTF

**Pima County Regional Wastewater Reclamation Department**

**Project: Renewable Natural Gas Management Services**

**Contractor: Blue Source, LLC**  
2825 Cottonwood Parkway, Suite 400  
Cottonwood Heights, UT 84121

**Amount: \$2,500,000.00 (Estimated Revenue)**

**Contract No.: MA-PO-20-220**

**PROFESSIONAL SERVICES CONTRACT**

**1. Parties, Background and Purpose.**

- 1.1. Parties. This Contract is between Pima County, a body politic and corporate of the State of Arizona ("County"), and Blue Source, LLC ("Contractor").
- 1.2. Authority. County selected Contractor pursuant to Pima County Procurement Code, 11.12.020 Competitive Sealed Proposals;
- 1.3. Solicitation. County previously issued Solicitation No. RFP-PO-1900008 for certain services (the "Solicitation"). Requirements and specifications contained in the Solicitation, all documents included in the Solicitation, and any information and documentation submitted by Contractor in response to the Solicitation, are incorporated into this Contract by reference.
- 1.4. Contractor's Response. Contractor submitted the most advantageous response to the Solicitation.

**2. Term.**

- 2.1. Original Term. This Contract is effective for a five-year period commencing on June 23, 2020 (the "Initial Term"). "Term," when used in this Contract, means the Initial Term plus any exercised Extension Options.
- 2.2. Extension Options. County may renew this Contract for up to three (3) additional periods of up to 1 year each (each an "Extension Option"). An Extension Option will be effective only upon execution by the Parties of a formal written amendment.

**3. Scope of Services.**

- 3.1. Contractor will provide County with services and County will fulfill the obligations as described in **EXHIBIT A** (3 pages), at the dates and times described on **EXHIBIT A** or, if **EXHIBIT A** contains no dates or time frames, then upon demand. The Services must comply with all requirements and specifications in the Solicitation.
- 3.2. Subject to the terms and conditions of this Contract, County agrees to convey to Contractor, throughout the Term, the following: (i) the sole and exclusive right to generate Contract Environmental Attributes; (ii) title to all such Contract Environmental Attributes; and (iii) the sole and exclusive right to market such Contract Environmental Attributes to Third Parties. To the extent reasonably necessary to accomplish the intent of the foregoing sentence, County shall take all necessary steps to grant, convey, and transfer all such Contract Environmental Attributes to Contractor (or, at Contractor's discretion, to a third party specified by Contractor) on any date reasonably specified by Contractor (which dates may include, but are not limited to, the date that such Contract Environmental Attributes are registered or the date that such Contract Environmental Attributes are to be delivered to a third party pursuant to an Environmental Attribute Sale Agreement).
- 3.3. Contractor's rights to develop and market Environmental Attributes are expressly limited to Environmental Attributes generated as a result of activities undertaken during the Term.

- 3.4. Contractor may aggregate and market such Environmental Attributes with Environmental Attributes generated from Third Party projects, in Contractor's discretion, as a function of Contractor's portfolio management, provided that Contractor can demonstrate that such aggregation will not result or has not resulted in the reduction of Environmental Attribute Proceeds that otherwise would be earned through individual sales of Environmental Attributes.
- 3.5. At its sole discretion, County may elect to participate in the LCFS market. Contractor will not expend funds to enter the LCFS market on County's behalf without written authorization from County.
- 3.6. RESERVATIONS REGARDING ENVIRONMENTAL ATTRIBUTE CREDIT DEVELOPMENT. Notwithstanding any other provision of this agreement, neither PARTY makes any representation or warranty as to either (I) the number of environmental attributes which may be generated as a result of any LCFS project or (II) the marketability or value which may be realized as a result of the creation of environmental attributes from any LCFS project.
4. **Key Personnel.** Contractor will employ suitably trained and skilled professional personnel to perform all consultant services under this Contract. Prior to changing any key personnel, especially those key personnel County relied upon in making this Contract, Contractor will obtain the approval of County. The key personnel include the following staff:  
William Overly; Sarah Johnson; Kevin Townsend.
5. **Compensation and Payment.**
- 5.1. Rates; Adjustment. Contractor will pay to County the County's Share of Net Proceeds from any sale of County-generated Environmental Attributes, less the Bluesource's Share of Net Proceeds, as set forth in **EXHIBIT B** (1 page). The allocation to Contractor will remain in effect during an Extension Option period unless Contractor, at least 90 days before the end of the then-existing Term, or at the time the County informs Contractor that the County intends to extend the Term, if that is earlier, notifies County in writing of any adjustments to those rates, and the reasons for the adjustments.
- 5.2. Sales Taxes. The payment amounts or rates in **EXHIBIT B** do not include sales taxes. Contractor may invoice County for sales taxes that Contractor is required to pay under this Contract. Contractor will show sales taxes as a separate line item on invoices. Commodity Gas consumed or sold by RWRD does not generate a commission to the Contractor.
- 5.3. Timing of Invoices. Contractor will pay County on a monthly basis unless a different billing period is set forth in **EXHIBIT B**. County must receive payments no more than 30 days after the end of the settlement period in which Contractor provided services to County. County may refuse to pay for any product or service for which Contractor does not timely invoice the County and, pursuant to A.R.S. § 11-622(C), will not pay for any product or service invoiced more than 6-months late.
- 5.4. Content of Payment Documents. Contractor will include detailed documentation of Net Proceeds allocations and all Expenses charged against County's account.
- 5.5. Payment Document Adjustments. County may, at any time during the Term, question any payment under this Contract. If County raises a question about the propriety of a past payment, Contractor will cooperate with County in reviewing the payment.
6. **Insurance.** Contractor will procure and maintain at its own expense insurance policies (the "Required Insurance") satisfying the below requirements (the "Insurance Requirements") until all of its obligations under this Contract have been met. The below Insurance Requirements are minimum requirements for this Contract and in no way limit Contractor's indemnity obligations under this Contract. The County in no way warrants that the required insurance is sufficient to protect the Contractor for liabilities that may arise from or relate to this Contract. If necessary, Contractor may obtain commercial umbrella or excess insurance to satisfy the Insurance Requirements.
- 6.1. Insurance Coverages and Limits:
- 6.1.1. Minimum Scope and Limits of Insurance: Contractor shall procure and maintain, until all of their obligations have been discharged, coverage with limits of liability not less than those stated below.

- 6.1.1.1. Commercial General Liability (CGL) – Occurrence Form with limits not less than \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate. Policy shall include cover for liability arising from premises, operations, independent contractors, personal injury, bodily injury, broad form contractual liability and products-completed operations. Any standard coverages excluded from the CGL policy, such as products/completed operations, etc. shall be covered by endorsement or separate policy and documented on the Certificates of Insurance.
- 6.1.1.2. Business Automobile Liability – Coverage for bodily injury and property damage on any owned, leased, hired, and/or non-owned autos assigned to or used in the performance of this Contract with minimum limits not less than \$1,000,000 Each Accident.
- 6.1.1.3. Workers' Compensation and Employers' Liability – Statutory coverage for Workers' Compensation. Workers' Compensation statutory coverage is compulsory for employers of one or more employees. Employers Liability coverage with limits of \$1,000,000 each accident and \$1,000,000 each employee – disease.
- 6.1.1.4. Professional Liability (E & O) Insurance – This insurance is required for work from professionals whose coverage is excluded from the above CGL policy. The policy limits shall be not less than \$2,000,000 Each Claim and \$2,000,000 Annual Aggregate. The insurance shall cover professional misconduct or negligent acts of anyone performing any services under this contract.
- 6.1.1.5. In the event that the Professional Liability insurance required by this Contract is written on a claims-made basis, Contractor shall warrant that continuous coverage will be maintained as outlined under "Additional Insurance Requirements – Claims-Made Coverage" located in the next section.

## 6.2. Additional Insurance Requirements:

The policies shall include, or be endorsed to include, as required by this written agreement, the following provisions:

- 6.2.1 Claims Made Coverage: If any part of the Required Insurance is written on a claims-made basis, any policy retroactive date must precede the effective date of this Contract, and Contractor must maintain such coverage for a period of not less than three (3) years following Contract expiration, termination or cancellation.
- 6.2.2 Additional Insured Endorsement: The General Liability, Business Automobile Liability and Technology E&O Policies shall each be endorsed to include Pima County, its departments, districts, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of the Contractor.
- 6.2.3 Subrogation Endorsement: The General Liability, Business Automobile Liability, Workers' Compensation and Technology E&O Policies shall each contain a waiver of subrogation endorsement in favor of Pima County, and its departments, districts, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.
- 6.2.4 Primary Insurance Endorsement: The Contractor's policies shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by Pima County, its agents, officials, employees or Pima County shall be excess and not contributory insurance.
- 6.2.5 The Required Insurance policies may not obligate the County to pay any portion of a Contractor's deductible or Self Insurance Retention (SIR). Insurance provided by the Contractor shall not limit the Contractor's liability assumed under the indemnification provisions of this Contract.
- 6.2.6 Insurer Financial Ratings: Coverage must be placed with insurers acceptable to the County with A.M. Best rating of not less than A-VII, unless otherwise approved by the County.
- 6.2.7 Subcontractors: Contractor must either (a) include all subcontractors as additional insureds under its Required Insurance policies, or (b) require each subcontractor to separately meet all Insurance Requirements and verify that each subcontractor has done so, Contractor must furnish, if requested by County, appropriate insurance certificates for each subcontractor. Contractor must obtain County's approval of any subcontractor request to modify the Insurance Requirements as to that subcontractor.

### 6.3 Notice of Cancellation:

For each insurance policy required by the insurance provisions of this Contract, the Contractor must provide to Pima County, within two (2) business days of receipt of notice, if a policy is suspended, voided, or cancelled for any reason. Such notice shall be mailed, emailed, hand-delivered or sent by facsimile transmission to the Pima County Contracting Representative. Notice shall include the Pima County project or contract number and project description.

### 6.4 Verification of Coverage:

- 6.4.1 Contractor shall furnish Pima County with certificates of insurance (valid ACORD form or equivalent approved by Pima County) as required by this Contract. An authorized representative of the insurer shall sign the certificates.
- 6.4.2 All certificates and endorsements, as required by this written agreement, are to be received and approved by Pima County before work commences. Each insurance policy required by this Contract must be in effect 10 days prior to work under this Contract. Failure to maintain the insurance coverages or policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.
- 6.4.3 All certificates required by this Contract shall be sent directly to the appropriate County Department. The Certificate of Insurance shall include the Pima County project or contract number and project description on the certificate. Pima County reserves the right to require complete copies of all insurance policies required by this Contract at any time.
- 6.4.4 Certificates must specify that the appropriate policies are endorsed to include additional insured and subrogation waiver endorsements for the County and its departments, officials and employees. Note: Contractors for larger projects must provide actual copies of the additional insured and subrogation endorsements.

### 6.5 Approval and Modifications:

Pima County Risk Management reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action. Neither the County's failure to obtain a required insurance certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, or the County's receipt of any other information from the Contractor, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

## 7. **Indemnification.**

- 7.1. Contractor Indemnification. To the fullest extent permitted by law, Contractor will defend, indemnify, and hold harmless Pima County and any related taxing district, and the officials and employees of each of them (collectively, "County Indemnatee") from and against any and all claims, actions, liabilities, losses, and expenses (including reasonable attorney fees) (collectively, "County Claims") arising out of actual or alleged injury of any person (including death) or loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by any act or omission of Contractor or any of Contractor's directors, officers, agents, employees, volunteers, or subcontractors. This indemnity includes any claim or amount arising or recovered under the Workers' Compensation Law or arising out of the failure of Contractor to conform to any federal, state or local law, statute, ordinance, rule, regulation or court decree. The County Indemnatee will, in all instances, except for County Claims arising solely from the acts or omissions of the Indemnatee, be indemnified by Contractor from and against any and all County Claims. Contractor is responsible for primary loss investigation, defense and judgment costs for any County Claim to which this indemnity applies. This indemnity will survive the expiration or termination of this Contract.
- 7.2. County Indemnification. To the fullest extent permitted by law, County will defend, indemnify, and hold harmless Contractor and any officials and employees of each of them (collectively, "Contractor Indemnatee") from and against any and all claims, actions, liabilities, losses, and expenses (including reasonable attorney fees) (collectively, "Contractor Claims") arising out of actual or alleged loss or damage to tangible or intangible property caused, or alleged to be caused, in whole or in part, by any act or omission of County or any of County's officers, agents, employees, volunteers, or subcontractors. The Contractor Indemnatee will, in

all instances, except for Contractor Claims arising solely from the acts or omissions of the Contractor Indemnitee, be indemnified by County from and against any and all Contractor Claims. County is responsible for primary loss investigation, defense and judgment costs for any Contractor Claim to which this indemnity applies. This indemnity will survive the expiration or termination of this Contract.

- 7.3 **Limitation of Liability for claims arising out of Environmental Attributes.** The Parties' respective liability to each other hereunder shall not exceed the sum of (i) the liable Party's Share of the Net Proceeds received for the Environmental Attributes giving rise to a claim as set forth in this Section 7, and (ii) interest equal to eight percent (8%) per annum prorated between dates of payment and repayment hereunder. This Paragraph 7.3 shall not apply in cases of the liable Party's willful misconduct or gross negligence, or with respect to any indemnification claims set forth in Sections 7.1 and 7.2 above.

**8. Laws and Regulations.**

- 8.1. **Compliance with Laws.** Contractor will comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders.
- 8.2. **Licensing.** Contractor warrants that it is appropriately licensed to provide the services under this Contract and that its subcontractors will be appropriately licensed.
- 8.3. **Choice of Law; Venue.** The laws and regulations of the State of Arizona govern the rights and obligations of the parties under this Contract. Any action relating to this Contract must be filed and maintained in the appropriate court of the State of Arizona in Pima County.
9. **Independent Contractor.** Contractor is an independent contractor. Neither Contractor, nor any of Contractor's officers, agents or employees will be considered an employee of Pima County for any purpose or be entitled to receive any employment-related benefits, or assert any protections, under the Pima County Merit System. Contractor is responsible for paying all federal, state and local taxes on the compensation received by Contractor under this Contract and will indemnify and hold County harmless from any and all liability that County may incur because of Contractor's failure to pay such taxes.
10. **Subcontractors.** Contractor is fully responsible for all acts and omissions of any subcontractor, and of persons directly or indirectly employed by any subcontractor, and of persons for whose acts any of them may be liable, to the same extent that the Contractor is responsible for the acts and omissions of its own employees. Nothing in this Contract creates any obligation on the part of County to pay or see to the payment of any money due any subcontractor, except as may be required by law.
11. **Assignment.** Contractor may not assign its rights or obligations under this Contract, in whole or in part, without the County's prior written approval. County may withhold approval at its sole discretion.
12. **Non-Discrimination.** Contractor will comply with all provisions and requirements of Arizona Executive Order 2009-09, which is hereby incorporated into this contract, including flow-down of all provisions and requirements to any subcontractors. During the performance of this Contract, Contractor will not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.
13. **Americans with Disabilities Act.** Contractor will comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.
14. **Authority to Contract.** Contractor warrants its right and power to enter into this Contract. If any court or administrative agency determines that County does not have authority to enter into this Contract, County will not be liable to Contractor or any third party by reason of such determination or by reason of this Contract.
15. **Full and Complete Performance.** The failure of either party to insist, in one or more instances, upon the other party's full and complete performance under this Contract, or to take any action based on the other party's failure to fully and completely perform, is not a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or condition, either in the past or in the future. The acceptance by either party of sums less than may be due and owing it at any time is not an accord and satisfaction.



16. **Cancellation for Conflict of Interest.** This Contract is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Contract by reference.
17. **Termination by County.**
- 17.1. Without Cause. County may terminate this Contract at any time, with or without cause, by serving a written notice upon Contractor at least 30 days before the effective date of the termination ("Early Termination"). In the event of such termination, and subject to Paragraph 17.4, County's only obligation to Contractor will be payment for services rendered prior to the date of termination.
- 17.2. With Cause. Subject to Paragraph 17.4, County may terminate this Contract at any time without advance notice and without further obligation to County when County finds Contractor to be in default of any provision of this Contract ("Early Termination").
- 17.3. Non-Appropriation. Notwithstanding any other provision in this Contract, County may terminate this Contract if for any reason there are not sufficient appropriated and available monies for the purpose of maintaining County or other public entity obligations under this Contract ("Early Termination"). In the event of such termination, and subject to Paragraph 17.4, County will have no further obligation to Contractor, other than to pay for services rendered prior to termination.
- 17.4. Upon the occurrence of an Early Termination as provided in this Section 17, Contractor shall have the right to market all existing Contract Environmental Attributes to Third Parties for ninety (90) days following the date of Early Termination. At the end of these ninety (90) days, neither Party shall have any further obligation to the other under this Contract and Contractor shall transfer to County all Environmental Attributes arising from the Project that have not been sold.
18. **Notice.** Any notice required or permitted to be given under this Contract must be in writing and be served by personal delivery or by certified mail upon the other party as follows:
- |  |  |
|--|--|
| County:  | Contractor:                                      |
| Pima County Regional Wastewater Reclamation Department | Blue Source, LLC, William Overly, Vice President |
| 201 N. Stone Ave., 8th Floor                           | 2825 Cottonwood Parkway, Suite 400               |
| Tucson, Arizona 85701                                  | Cottonwood Heights, UT 84121                     |
19. **Non-Exclusive Contract.** Contractor understands that this Contract is nonexclusive and is for the sole convenience of County. County reserves the right to obtain like services from other sources for any reason.
20. **Remedies.** Either party may pursue any remedies provided by law for the breach of this Contract. No right or remedy is intended to be exclusive of any other right or remedy and each is cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Contract.
21. **Severability.** Each provision of this Contract stands alone, and any provision of this Contract found to be prohibited by law will be ineffective to the extent of such prohibition without invalidating the remainder of this Contract.
22. **Books and Records.** Contractor will keep and maintain proper and complete books, records and accounts, which will be open at all reasonable times for inspection and audit by duly authorized representatives of County. In addition, Contractor will retain all records relating to this Contract for at least five (5) years after its expiration or termination or, if later, until any related pending proceeding or litigation has concluded.
23. **Public Records.**
- 23.1. Disclosure. Pursuant to A.R.S. § 39-121 et seq., and A.R.S. § 34-603(H) in the case of construction or Architectural and Engineering services procured under A.R.S. Title 34, Chapter 6, all documents submitted in response to the solicitation resulting in award of this Contract, including, but not limited to, pricing schedules, product specifications, work plans, and any supporting documents, are public records. As such, those documents are subject to release and/or review by the general public upon request, including competitors.

23.2. Records Marked Confidential; Notice and Protective Order. If Contractor reasonably believes that some of those records contain proprietary, trade-secret or otherwise-confidential information, Contractor must prominently mark those records "CONFIDENTIAL." In the event a public-records request is submitted to County for records marked CONFIDENTIAL, County will notify Contractor of the request as soon as reasonably possible. County will release the records 10 business days after the date of that notice, unless Contractor has, within that period, secured an appropriate order from a court of competent jurisdiction, enjoining the release of the records. County will not, under any circumstances, be responsible for securing such an order, nor will County be in any way financially responsible for any costs associated with securing such an order.

**24. Legal Arizona Workers Act Compliance.**

24.1. Compliance with Immigration Laws. Contractor hereby warrants that it will at all times during the term of this Contract comply with all federal immigration laws applicable to its employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor will further ensure that each subcontractor who performs any work for Contractor under this Contract likewise complies with the State and Federal Immigration Laws.

24.2. Books & Records. County has the right at any time to inspect the books and records of Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

24.3. Remedies for Breach of Warranty. Any breach of Contractor's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, is a material breach of this Contract subjecting Contractor to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Contractor will be required to take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor, as soon as possible so as not to delay project completion. Any additional costs attributable directly or indirectly to such remedial action are the responsibility of Contractor.

24.4. Subcontractors. Contractor will advise each subcontractor of County's rights, and the subcontractor's obligations, under this Section 24 by including a provision in each subcontract substantially in the following form:

"Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to insure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor is a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

25. **Grant Compliance.** Not Applicable

26. **Amendment.** The parties may modify, amend, alter or extend this Contract only by a written amendment signed by the parties.

27. **Israel Boycott Certification.** Contractor hereby certifies that it is not currently engaged in, and will not for the duration of this Contract engage in, a boycott of Israel as defined by A.R.S. § 35-393.01. Violation of this certification by Design-Builder may result in action by the County up to and including termination of this Contract.

28. **Entire Agreement.** This document constitutes the entire agreement between the parties pertaining to the subject matter it addresses, and this Contract supersedes all prior or contemporaneous agreements and understandings, oral or written.

**PIMA COUNTY**

\_\_\_\_\_  
Chairman, Board of Supervisors

\_\_\_\_\_  
Date

**ATTEST**

\_\_\_\_\_  
Clerk of the Board

\_\_\_\_\_  
Date

**APPROVED AS TO FORM**

Victoria Buchinger  
Deputy County Attorney

Victoria Buchinger  
Print DCA Name

6-18-20  
Date

**BLUE SOURCE, LLC**

William T. Over  
Authorized Officer Signature

William T. Over  
Printed Name and Title

6-22-20  
Date

## EXHIBIT A (5 Pages)

### SCOPE OF SERVICES AND OBLIGATIONS

Pima County seeks to maximize the beneficial use of biogas generated through the digestion process at the Tres Rios Water Reclamation Facility through the sale of RNG and related RIN (Renewable Identification Number) management.

1. **CONTRACTOR SERVICES AND OBLIGATIONS.** The Renewable Natural Gas Management Services Contractor will, at a minimum, deliver the following services:
  - a) Identify opportunities for the sale and use of RNG with the goal of maximizing revenues (net of costs and revenue sharing) to the County including, but not limited to:
    - i) Commodity gas;
    - ii) D3 RINs;
    - iii) D5 RINs (as applicable);
    - iv) Low Carbon Fuel Standard (LCFS) Credits (as applicable);
    - v) Other environmental attributes (as applicable).
  - b) Support and advise Pima County on negotiations with RNG End-User(s) and Southwest Gas.
  - c) Ongoing analysis and assessment of market conditions and opportunities for the sale of RNG.
  - d) Ongoing analysis and assessment of market conditions and opportunities and timing for the monetization of RINs and other environmental attributes.
  - e) Manage all aspects of commodity gas sales in a manner that maximizes the fiscal and environmental value to Pima County.
  - f) Manage all aspects of scheduling and transporting gas on the Southwest Gas local distribution systems (and other interstate pipelines as required).
  - g) Manage aspects of virtually storing the environmental attribute until EPA approval, and then withdraw the attributes to pair with transportation dispensing activities
  - h) Provide balancing and adjustment services among:
    - i) Nominations to the Local Distribution Company and actual RNG delivered;
    - ii) Transportation End-User volumes consumed; and
    - iii) Commodity gas volumes sold or purchased.
  - i) Provide invoicing and collection services for the RNG sales.
  - j) Identify, document and register with the US Environmental Protection Agency (EPA), the pathway required for the sale and use of RNG as transportation fuel.
  - k) Register the RNG Facility in the EPA Moderated Transaction System (EMTS).
  - l) Assist in registering Pima County as a Renewable Fuel Producer.
  - m) Assist in the preparation and submittal of all EPA required reports for RIN generation and Renewable Fuels Standard (RFS) compliance.
  - n) Manage all RNG project registrations and certifications required for LCFS and/or other non-RIN environmental attributes.
  - o) Assist with the selection of and interface with the RNG Project's Quality Assurance Program (QAP) Service Provider.
  - p) Manage the registration and tracking of RINs and other environmental attributes.
  - q) Provide transportation end user RNG volume data to the EPA as required for the creation and receipt of D3 RINs.
  - r) Provide transportation end user RNG volume data to the EPA as required for the creation and receipt of D3 and D5 (as applicable) RINs.
  - s) Market RINs, LCFS and other environmental attributes as directed by Pima County and arrange for RIN brokerage services to complete/monetize the sale of RINs, LCFS and other environmental attribute credits.

- t) Manage the distributions of financial proceeds from the sale of commodity gas, RINs and other environmental attributes (as applicable) to the appropriate parties with written approval from County and as outlined in Exhibit B.
- u) Obtain all permits, licenses, and other authorizations necessary for Contractor to work in Arizona

2. **COUNTY OBLIGATIONS.** Pima County will fulfill the following obligations:

- a) **Information Sharing.** County shall provide Contractor with any and all information, data, or documents that Contractor specifically and reasonably requests relating to the RINs and pursuant to this Contract that is necessary for Contractor to generate RINs and otherwise perform its obligations under this Contract. Such information shall include the following:
  - i. No less frequently than once per month (and more frequently if agreed to by the Parties), County shall provide Contractor with the total quantity of Renewable Fuel produced from the Project location for transportation purposes. Such quantity shall be provided in MMBTU (million British Thermal Units).
  - ii. At periodic intervals (currently estimated to be no more than quarterly), upon Contractor's request County shall provide Contractor with an affidavit, in form and substance substantially similar to the example attached hereto as Attachment 1, attesting to the accuracy of the information provided pursuant to Paragraph 2(a)(i) above.
- b) Throughout the Term, upon Contractor's reasonable request, County shall execute and deliver such additional documents and take such further actions as may be reasonably required to enable Contractor to satisfy its obligations regarding Environmental Attribute development and marketing, as set forth in this Contract.
- c) **Recordkeeping:** County shall maintain records relating to this Contract and reasonably necessary to establish the validity of the Environmental Attributes sold pursuant to this Contract, including but not limited to maintaining records sufficient to satisfy applicable recordkeeping requirements under the RFS Program and LCFS Regulation. Such records are anticipated to include information on the quantity of Environmental Attributes sold to end users. The records shall be kept five (5) years from the date they were created, except that records related to transactions involving Environmental Attributes, if any, shall be kept for five (5) years from the date of the transaction. County shall make such records available for inspection upon reasonable advance notice from Contractor at reasonable times and places, and subject to reasonable restrictions. County shall also make such records available to any governmental or regulatory body with competent jurisdiction over the Environmental Attributes being sold.
- d) On a timely basis, County shall provide all information reasonably requested by Contractor pursuant to Section 2(a) of this Exhibit A relating to (i) the quantity of RNG introduced into the commercial distribution system at the project, and (ii) representations that such RNG was used for transportation purposes and which is relied upon by Contractor to create Environmental Attributes. County warrants that all such information shall be accurate and complete in all material respects.

3. **NOTICE OF INVALID ENVIRONMENTAL ATTRIBUTES.** If either Party becomes aware that any of the Environmental Attributes generated, separated, owned, and/or sold by the Parties pursuant to this Contract were invalid Environmental Attributes, then that Party shall notify the other Party, in writing, within fifteen (15) business days of such determination and work in good faith to resolve any issues.

4. **DEFINITIONS.**

- a) "Contract Environmental Attributes" means all Environmental Attributes generated from the Project which result from activities taking place during the Project Period. For clarification, the term "Contract Environmental Attributes" excludes all Environmental Attributes which could be generated as a result of activities taking place either before or after the Term.
- b) "Environmental Attribute Proceeds" means all funds received by Contractor from the sale of Environmental Attributes generated from the Project pursuant to an Environmental Attribute Sale Agreement.
- c) "Environmental Attributes" means all benefits and all associated rights, title, and interest, without limitation, in or arising out of the environmental and financial benefits associated with the avoidance of greenhouse gas or other emissions, including, without limitation, credits issued pursuant to the RFS Program, emission reduction credits, verified emission reductions, voluntary emission reductions, offsets, allowances, voluntary carbon units, local air quality benefits, and similar credits.
- d) "Environmental Attribute Sale Agreement" means an agreement of sale between Service Provider and a third party (which shall not be an affiliate of Service Provider) that provides for the sale of Environmental Attributes subject to this Contract to such third party in return for a cash payment by such third party to Service Provider.

- e) "Expenses" means all costs paid by Contractor to Third Parties in order to fulfill its obligations pursuant to this Contract. Expenses include, without limitation, actual fees paid to any Third-Party Engineering Assessment performed by Third Parties, EPA or other registration costs, and transfer fees. Contractor will fully document all Expenses and provide County with a detailed explanation of all Expenses incurred. Such explanation will accompany Contractor's monthly payment to County.
- f) "Invalid Environmental Attributes" shall have the meaning subscribed in § 95495 of the LCFS Regulation and 40 C.F.R. § 80.1431(a) of the RFS Program.
- g) "LCFS Credits" means LCFS credits as defined by the LCFS Program.
- h) "LCFS Program" means the Low Carbon Fuel Standards program established pursuant the California Assembly Bill AB32 and the Governor's Executive Order S-01-07 and implementing regulations, including without limitation, the current LCFS Regulation, and any guidance published ARB with respect to such regulations.
- i) "LCFS Regulation" means the California Low Carbon Fuel Standard Regulation, codified at 17 CCR § 95480 et seq, as such may be amended from time to time.
- j) "Net Proceeds" means Proceeds minus Expenses.
- k) "Proceeds" means all funds received by Contractor from the sale of Environmental Attributes generated from the Project under an Environmental Attribute Sale Agreement.
- l) "Project" refers to the work necessary to generate and sell Environmental Attributes based on County's production of RNG at the Tres Rios Water Reclamation Facility.
- m) "Renewable Fuel" shall have the same meaning set forth in 40 C.F.R. § 80.1401.
- n) "Renewable Fuel Consumer" means a Third Party who consumes Renewable Fuel.
- o) "Renewable Identification Number(s)" or "RIN(s)" shall have the same meaning as set forth in 40 C.F.R. § 80.1401.
- p) "RFS Program" means the Renewable Fuel Standards program established by the Energy Policy Act of 2005 and the Energy Independence and Security Act of 2007 and implementing regulations, including without limitation, 40 C.F.R. Part 80, Subpart M, and any guidance published by EPA with respect to such regulations.
- q) "Third-Party Engineering Assessment" means an engineering review performed by at least one licensed professional engineer who also qualifies as an independent Third-Party to evaluate and confirm the accuracy of the information provided to the EPA by the County pursuant to the requirements of the RFS Program and LCFS Program.