

EAST BAY MUNICIPAL UTILITY DISTRICT

REQUEST FOR PROPOSAL (RFP) No. PUR 100

for

Fully Maintained and Operated Backhoe and Earthmoving Services

Contact Person: Susan Rexin, Buyer II

Phone Number: (510) 287-0451

E-mail Address: susan.rexin@ebmud.com

For complete information regarding this project, see RFP posted at <https://www.ebmud.com/business-center/requests-proposal-rfps/> or contact the EBMUD representative listed above. Please note that prospective bidders are responsible for reviewing this site during the RFP process, for any published addenda regarding this RFP.

RESPONSE DUE

by

4:00 p.m.

on

February 28, 2018

at

EBMUD, Purchasing Division

375 Eleventh St., First Floor

Oakland, CA 94607



375 Eleventh Street, Oakland, CA 94607

Website: ebmud.com

EAST BAY MUNICIPAL UTILITY DISTRICT

RFP No. PUR 100

Fully Maintained and Operated Backhoe and Earthmoving Services

TABLE OF CONTENTS

I. STATEMENT OF WORK

- A. SCOPE
- B. PROPOSER QUALIFICATIONS
- C. SPECIFIC REQUIREMENTS

II. CALENDAR OF EVENTS

III. DISTRICT PROCEDURES, TERMS, AND CONDITIONS

- A. RFP ACCEPTANCE AND AWARD
- B. PREVAILING WAGES
- C. PROTESTS
- D. INVOICING
- E. TERMINATION

IV. RFP RESPONSE SUBMITTAL INSTRUCTIONS AND INFORMATION

- A. DISTRICT CONTACTS
- B. SUBMITTAL OF RFP RESPONSE
- C. RESPONSE FORMAT

ATTACHMENTS

- EXHIBIT A - RFP RESPONSE PACKET
- EXHIBIT B - INSURANCE REQUIREMENTS
- EXHIBIT C - GENERAL REQUIREMENTS
- EXHIBIT D – GUIDELINES FOR SELECTION OF RENTAL BACKHOES
- EXHIBIT E - ADDITIONAL INFORMATION TO BE PROVIDED TO THE DISTRICT
 - Prevailing Wage Agreement
 - Statement of Responsibility
 - Certificate of Liability Insurance
 - Certificate of Worker’s Compensation

I. STATEMENT OF WORK

A. SCOPE

The East Bay Municipal Utility District (District) invites all qualified backhoe and earthmoving operators to provide fully maintained and operated (FM&O) backhoe and/or earthmoving services throughout its service area.

Backhoe scope of work is to supply, on a rental basis, fully maintained and operated tractor backhoes with front-end loader bucket at various District jobsites.

Earthmoving scope of work is constructing and shoring deep excavations, removing material related to repairing landslides and other types of earthwork including work on hazardous slopes, and constructing and placing retaining and slope protection materials such as riprap, backfilling, and other related construction services.

The District intends to award blanket purchase orders to all qualified contractors during a period of two years, with three options to extend at the District's sole discretion for additional one-year periods. Contractors awarded contracts will be offered work opportunities on a rotational basis.

Bidders may provide bids for backhoe and/or earthmoving services.

B. PROPOSER QUALIFICATIONS

1. Proposer Minimum Qualifications

- a. Bidders must be regularly engaged in the backhoe/excavation business and hold appropriate state and/or local contractor licenses and/or permits. A C-12 or Engineering "A" license is required for the bidder to be responsive.
- b. Proposer shall possess all permits, licenses, and professional credentials necessary to perform services as specified under this RFP.

The District reserves the right, at any time during the term of the contract, to re-request any of the required documentation or to ask that drivers demonstrate their proficiency on equipment which they will operate in the performance of their duties for the District.

C. SPECIFIC REQUIREMENTS

- 1. **REQUIREMENTS** - All contractors indicating interest in District work will receive the following material and are required to take actions as noted:

- a. District guidelines for selection of rental backhoes.
- b. An agreement regarding payment of prevailing wages which must be signed and returned.
- c. Statement of responsibility related to work performed for the District to be signed and returned.
- d. Register your company on-line at www.ebmud.com (if you are not already registered).
- e. Register with the Department of Industrial Relations (DIR) and provide your DIR number on the List of Equipment in Exhibit E.
- f. A copy of the District Certificate of Liability Insurance. Proof of insurance does not have to be provided until the contractor is to be assigned to the active list.

2. HOURS OF RENTAL

The hours of rental specified on the Bidding Sheet are approximate only and the actual hours required will depend upon the maintenance and construction projects carried out during the term of the contract. It is possible that no equipment whatsoever will be required for a given service area, or any number up to the stated number may be required at one time under this proposal. In the event that more than the stated number of required backhoes is needed in a service area, the Contractor will be given the first opportunity to supply the extra equipment at contract prices. If the Contractor does not elect to supply the extra equipment, the District will secure the equipment from other sources.

3. LOCATION OF WORK

The Contractor shall furnish the equipment required to jobsites anywhere within the District's service boundary, **including transporters when required.**

4. ORDERING OF EQUIPMENT

Orders will be placed by Equipment Support Services only. Do not accept requests from any other District employee.

Should the Contractor be required to work at more than one (1) jobsite location during the day, the Contractor shall be required to have and maintain at the jobsite a transporter to move the backhoe from one location to another.

The Contractor shall supply the District with the name, telephone number(s) of the individual (see questionnaire) who will take the District's request for equipment. This person shall be reachable for placing orders twenty-four (24) hours a day. Normal business hours are 7:00 a.m. to 4:30 p.m. Should the District have repeated difficulty reaching the Contractor to request equipment, the contract may be canceled.

Orders for equipment will be placed as the day-to-day requirements become known. Whenever possible, the Contractor will be given one day's prior notice of locations and number of backhoes required. Equipment may be required on the same day notification is given. In this event, two (2) hours' notification will be given, and the Contractor must have equipment at the jobsite two (2) hours after the notification.

In the event the Contractor is unable to supply the equipment as required, he shall so notify the Scheduling Section within 15 minutes after the order is placed.

In the event that the equipment does not show up within one (1) hour, the District will obtain other equipment and the Contractor shall be liable for the difference in cost of the other equipment. Repeated occurrences will result in termination of the contract.

5. FAILURE TO FURNISH EQUIPMENT/OPERATING PERSONNEL

If the Contractor fails to report to a job it has accepted, the District reserves the right to obtain said equipment and service elsewhere on the open market and the Contractor shall be liable for any loss to the District occasioned through the difference between the cost as so procured and the amounts bid herein by the Contractor. The said amounts will be deducted from any monies due the Contractor under this contract. Should those damages exceed the amount due, the Contractor shall be liable for the excess. The Contractor shall also be liable for additional cost the District incurs as a result of the Contractor's failure to report to the jobsite.

6. OPERATING PERSONNEL

The Contractor must furnish only experienced and skilled operators and other personnel as required. Apprentice operators are not acceptable.

OPERATORS MUST BE ABLE TO DIG AND BACKFILL A MINIMUM OF FIFTEEN (15) STANDARD TRACT SERVICES PER DAY. A STANDARD TRACT SERVICE IS A 2' X 3' X 20' TRENCH WITH OBSTRUCTIONS IN DIRT. OPERATORS SHALL ALSO BE ABLE TO DO SINGLE SITE EXCAVATION.

When, in the opinion of the District, operators are not experienced and skilled, they shall be replaced by the Contractor with skilled personnel who are acceptable to the District.

The Contractor shall furnish a list of operators' names and qualifications for pre-approval by the District prior to starting the contract (see questionnaire). The Contractor shall maintain sufficient personnel to meet the District's requirements. The District may require that an operator demonstrate his proficiency prior to approval for placement on District jobs. New operators hired by the Contractor after the start of the contract must be approved by the District before placement on District jobs. An operator assigned to a District job shall remain on that job for the duration. Switching of operators will be permitted in unusual circumstances with approval of the District.

7. RATES

Basic Rate Per Hour. Shall include all wages for operating personnel as well as the cost of transportation of equipment to and from jobsites, fuel, oil, lubrications, supplies, small tools, necessary attachments, repair and maintenance of any kind, depreciation, storage, insurance, and all incidentals.

Time at the applicable hourly rate shall begin at the time that services are ordered to be ready and are available for work at the specified job location.

No payment will be made for breakdowns or repairs or time lost due to unfavorable weather or other causes beyond the control of the District.

The District will endeavor to notify the Contractor in advance when a job will be shut down; however, the District will not be liable for any show up time for the operator or equipment.

Overtime Rate Per Hour. If overtime is required by the District, the overtime rate shown on the Bidding Sheet will be paid for hours in excess of either eight (8) hours a day or forty (40) hours a week.

Miscellaneous. No payment will be made while equipment is inoperative due to breakdown.

Rental Time. In computing rental time of equipment, four (4) hours or less shall be one half day payment; over four (4) hours shall be considered one (1) day.

8. EQUIPMENT

The Contractor shall furnish rubber-tired tractors, licensed and capable of being operated on the city streets, equipped with backhoes, one of which must have an extend-a-hoe (or capable of a digging depth of 18') with a minimum digging depth capacity of 12'; and 12", 18", 24", and 30" buckets. See District Guidelines for full list of equipment. The Contractor shall have rubber street pads for installation on the backhoe outriggers and shall be prepared to mount them as may be required by the District. Only equipment in good working condition is acceptable. The District reserves the right

to inspect any and all equipment and to reject all pieces found to be in unsatisfactory condition or doing unsatisfactory work. In the event of any rejection by the District, the Contractor must remove the unsatisfactory equipment and replace it with good and acceptable equipment. The Contractor shall also be liable for additional cost the District incurs as a result of breakdown delays.

Any delay arising from such requested replacement of equipment and/or operator shall be classified as "breakdown delay" and no payment will be made for this period.

9. ACTIVE/WAITING LIST

When the information package is completed, returned, and accepted, the backhoe contractor will be placed on a list pending Board approval. Once approved by the Board, the list becomes operative and backhoe contractors will be placed on one of two lists, active and waiting. Those on the active list will be utilized on a rotational basis as needed. Selection for the active list will be based on a combination of factors which may include job performance, qualifications, availability, training, certifications, insurance, accidents and CHP reports, and experience. The District reserves the right to move contractors between the active and waiting lists as business needs require and may use a lottery system to select vendors for the active list when all other factors are equal.

10. MOVEMENT BETWEEN LISTS

The active list contains those backhoe contractors who will be contacted on a rotational basis for EBMUD jobs and the waiting list contains those vendors that will replace or augment the active list. Movement from the waiting list to the active list occurs when the District requests additional or replacement backhoe contractors. Factors which may generate these requests include

- a. Assessment of workload.
- b. Vacancies created by contractors requesting removal from the active list.
- c. Vacancies created by removal of a contractor from the active list due to poor performance or failure to adhere to District guidelines specified in attached guidelines.
- d. Changes in cost of service.
- e. Changes in ownership.

11. REMOVAL FROM ACTIVE LIST

Removal from the Active List may occur for a variety of reasons, including:

- a. Failure to follow attached guidelines.
- b. Unauthorized use of District property or facilities
- c. Failure to secure District property or facilities.
- d. Loss or damage to District, public, and/or private property.
- e. Excess number of declines. A review will be conducted after a minimum of 10 consecutive declines.

II. CALENDAR OF EVENTS

EVENT	DATE/LOCATION
RFP Issued	February 13, 2018
Response Due	February 28, 2018 by 4:00 p.m.
Anticipated Contract Start Date	April 1, 2018

Note: All dates are subject to change.

Proposers are responsible for reviewing <https://www.ebmud.com/business-center/requests-proposal-rfps/> for any published addenda. Hard copies of addenda will not be mailed out.

III. DISTRICT PROCEDURES, TERMS, AND CONDITIONS

A. RFP ACCEPTANCE AND AWARD

- 1. Contractors submitting complete application packets with all the requested requirements will be added to the rotation list.
- 2. The District has the right to decline to award this contract or any part of it for any reason.
- 3. Any specifications, terms, or conditions issued by the District, or those included in the Proposer’s submission, in relation to this RFP, may be incorporated into any purchase order or contract that may be awarded as a result of this RFP.
- 4. Award of contract. The District reserves the right to reject any or all proposals, to accept one part of a proposal and reject the other, unless the bidder stipulates to the contrary, and to waive minor technical defects and administrative errors, as the interest of the District may require. Award will be made or proposals rejected by the District as soon as possible after bids have been opened.

B. PREVAILING WAGES:

All Contractors bidding on a public works project and all Subcontractors of any tier shall be registered with the State Department of Industrial Relations pursuant to Section 1725.5 of the Labor Code.

The Contractor shall post a copy of the general prevailing rate of per diem wages at the jobsite pursuant to Section 1773.2 of the Labor Code of the State of California.

Pursuant to the provisions of Division 2, Part 7, Chapter 1, Article 2, and any amendments thereof of the Labor Code of the State of California, the Contractor and any Subcontractor shall pay not less than the specified prevailing rate of wages to all workers employed in the execution of the contract.

The Contractor shall, as a penalty to the State or the District, forfeit Forty (\$40.00) and not more than Two Hundred (\$200.00) Dollars for each calendar day, or portion thereof, for each worker paid less than the stipulated prevailing rates for any work or craft in which such worker is employed under the contract by the Contractor or by any Subcontractor. The difference between such stipulated prevailing wage rates and the amount paid to such worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Contractor. The provisions of Section 1776 of the Labor Code of the State of California shall be complied by the Contractor. For all classes of work not specified herein, the minimum wage shall be that specified for general laborer.

The specified wage rates are minimum rates only and the District will not consider and shall not be liable for any claims for additional compensation made by the Contractor because of payment by Contractor of any wage rate in excess of the general prevailing rates. All disputes in regard to the payment of wages in excess of those specified herein shall be adjusted by the Contractor at his own expense.

The holidays upon which such rates shall be paid shall be all holidays recognized in the collective bargaining agreement applicable to the particular craft, classification, or type of worker employed on the project.

Certified payroll shall be submitted to the District upon request.

C. PROTESTS

Protests must be in writing and must be received no later than seven (7) business days after the District issues the Notice of Intent to Award, which is sent to all entities who submitted a proposal. The District will reject the protest as untimely if it is received after this specified time frame. Protests will be accepted from proposers or potential proposers only.

If the protest is mailed and not received by the District, the protesting party bears the burden of proof to submit evidence (e.g., certified mail receipt) that the protest was sent in a timely manner so that it would be received by the District within the RFP protest period.

Bid protests must contain a detailed and complete written statement describing the reason(s) for protest. The protest must include the name and/or number of the bid, the name of the firm protesting, and include a name, telephone number, email address and physical address of the protester. If a firm is representing the protester, they shall include their contact information in addition to that of the protesting firm.

Protests must be mailed or hand delivered to the Manager of Purchasing, East Bay Municipal Utility District, 375 Eleventh Street, Oakland, CA 94607 or P.O. Box 24055, Oakland, California 94623. Facsimile and electronic mail protests must be followed by a mailed or hand delivered identical copy of the protest and must arrive within the seven day time limit. Any bid protest filed with any other District office shall be forwarded immediately to the Manager of Purchasing.

The bid protester can appeal the determination to the requesting organization's Department Director. The appeal must be submitted to the Department Director no later than five business days from the date of receipt of the requesting organization's determination on the protest.

Such an appeal must be made in writing and must include all grounds for the appeal and copies of the original protest and the District's response. The bid protester must also send the Purchasing Division a copy of all materials sent to the Department Director. The Department Director will make a determination of the appeal and respond to the protester by certified mail in a timely manner. If the appeal is denied, the letter will include the date, time, and location of the Board of Directors meeting at which staff will make a recommendation for award and inform the protester it may request to address the Board of Directors at that meeting.

The District may transmit copies of the protest and any attached documentation to all other parties who may be affected by the outcome of the protest. The decision of the

District as to the validity of any protest is final. This District's final decision will be transmitted to all affected parties in a timely manner.

D. INVOICING

1. CONTRACTOR shall invoice on the 15th and 30th of each month (see attached guidelines) for services rendered, setting forth a description of the costs incurred, the services performed, the date the services were performed, the amount of time spent on each date services were performed and by whom. CONTRACTOR shall also provide any information which will assist DISTRICT in performing any audit of the invoices. CONTRACTOR certifies that the proposed cost and pricing data used herein reflect the payment of prevailing wage rates where applicable and are complete, current, and accurate. CONTRACTOR agrees to use every appropriate method to contain its fees and costs under this Agreement.
2. The District shall notify General or Professional Service Provider of any invoice adjustments required.
3. Invoices shall contain, at a minimum, District purchase order number, Org number, job number, invoice number, remit to address, and itemized services description.
4. The District will pay General or Professional Service Provider in an amount not to exceed the negotiated amount(s) which will be referenced in the agreement signed by both parties.

E. TERMINATION

1. Contract may be canceled by the District without cause with thirty (30) days' written notice without penalties to the District. If the District terminates this Agreement under this paragraph, Contractor may retain all amounts previously paid by the District and may collect and retain any amounts due or accrued on the date of such termination. Such payment by the District shall be the Contractor's sole and exclusive remedy.

IV. RFP RESPONSE SUBMITTAL INSTRUCTIONS AND INFORMATION

A. DISTRICT CONTACTS

All contact during the competitive process is to be through the contact listed on the first page of this RFP. The following persons are to be contacted only for the purposes specified below:

FOR INFORMATION REGARDING TECHNICAL SPECIFICATIONS & AFTER AWARD:

Attn: David Gonzalez, Asst. Construction and Maintenance Supt
EBMUD - Equipment Support/MCD
E-Mail: dave.gonzalez@ebmud.com
PHONE: (510) 287-0824

FOR INFORMATION ON THE CONTRACT EQUITY PROGRAM:

Attn: Contract Equity Office
PHONE: (510) 287-0114

B. SUBMITTAL OF RFP RESPONSE

1. Unsealed responses will not be accepted.
2. RFP responses submitted via electronic transmissions will not be accepted. Electronic transmissions include faxed RFP responses or those sent by electronic mail ("e-mail").
3. RFP responses will be received only at the address shown below, must be SEALED, and must be received at the District Purchasing Division by 4:00 p.m. on the due date specified in the Calendar of Events. All RFP responses must be received and time stamped at the stated address by the time designated. The Purchasing Division's timestamp shall be considered the official timepiece for the purpose of establishing the actual receipt of RFP responses.
4. RFP responses are to be addressed/delivered as follows:

Mailed:

Andrew Akelman, Manager of Purchasing
East Bay Municipal Utility District
PUR 100 – FM&O Backhoe and Earthmoving Services
EBMUD–Purchasing Division
P.O. Box 24055, MS 102
Oakland, CA 94623

Hand Delivered or delivered by courier or package delivery service:

Andrew Akelman, Manager of Purchasing-EBMUD
East Bay Municipal Utility District
PUR 099 – FM&O Backhoe and Earthmoving Services
EBMUD–Purchasing Division
375 Eleventh Street, First Floor
Oakland, CA 94607

Proposer’s name, return address, and the RFP number and title must also appear on the mailing package.

5. Proposers are to submit one (1) original hardcopy RFP response (Exhibit A – RFP Response Packet, including Contract Equity Program forms and all additional documentation stated in the “Required Documentation and Submittals” section of Exhibit A), all with original ink signatures.
6. All costs required for the preparation and submission of an RFP response shall be borne by the Proposer.
7. California Government Code Section 4552: In submitting an RFP response to a public purchasing body, the Proposer offers and agrees that if the RFP response is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the Proposer for sale to the purchasing body pursuant to the RFP response. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the Proposer.
8. Proposer expressly acknowledges that it is aware that if a false claim is knowingly submitted (as the terms “claim” and “knowingly” are defined in the California False Claims Act, Cal. Gov. Code, §12650 et seq.), the District will be entitled to civil remedies set forth in the California False Claim Act.
9. The RFP response shall remain open to acceptance and is irrevocable for a period of one hundred eighty (180) days, unless otherwise specified in the RFP documents.
10. It is understood that the District reserves the right to reject any or all RFP responses.

C. RESPONSE FORMAT

1. **Proposers shall not modify any part of Exhibits A, B, C, D, or E, or qualify their RFP responses. Proposers shall not submit to the District a re-typed or otherwise re-created version of these documents or any other District-provided document.**
2. RFP responses, in whole or in part, are NOT to be marked confidential or proprietary. The District may refuse to consider any RFP response or part thereof so marked. RFP responses submitted in response to this RFP may be subject to

public disclosure. The District shall not be liable in any way for disclosure of any such records.



EXHIBIT A

RFP RESPONSE PACKET

RFP No. PUR 100 - FULLY MAINTAINED AND OPERATED BACKHOE AND EARTHMOVING SERVICES

To: The EAST BAY MUNICIPAL UTILITY District (“District”)

From: _____
(Official Name of Proposer)

RFP RESPONSE PACKET GUIDELINES

- **AS DESCRIBED IN SECTION IV- RFP RESPONSE SUBMITTAL INSTRUCTIONS AND INFORMATION, PROPOSERS ARE TO SUBMIT ONE (1) ORIGINAL HARDCOPY RFP RESPONSE WITH ORIGINAL INK SIGNATURES CONTAINING THE FOLLOWING, IN THEIR ENTIRETY:**
 - **EXHIBIT A – RFP RESPONSE PACKET**
 - **INCLUDING ALL REQUIRED DOCUMENTATION AS DESCRIBED IN “EXHIBIT A-REQUIRED DOCUMENTATION AND SUBMITTALS”**
 - **EXHIBIT E – ADDITIONAL INFORMATION TO BE PROVIDED TO THE DISTRICT**
- **PROPOSERS THAT DO NOT COMPLY WITH THE REQUIREMENTS, AND/OR SUBMIT AN INCOMPLETE RFP RESPONSE MAY BE SUBJECT TO DISQUALIFICATION AND THEIR RFP RESPONSE REJECTED IN TOTAL.**
- **IF PROPOSERS ARE MAKING ANY CLARIFICATIONS AND/OR AMENDMENTS, OR TAKING EXCEPTION TO ANY PART OF THIS RFP, THESE MUST BE SUBMITTED IN THE EXCEPTIONS, CLARIFICATIONS, AND AMENDMENTS SECTION OF THIS EXHIBIT A – RFP RESPONSE PACKET. THE DISTRICT, AT ITS SOLE DISCRETION, MAY ACCEPT AMENDMENTS/EXCEPTIONS, OR MAY DEEM THEM TO BE UNACCEPTABLE, THEREBY RENDERING THE RFP RESPONSE DISQUALIFIED.**
- **BIDDERS SHALL NOT MODIFY DISTRICT LANGUAGE IN ANY PART OF THIS RFQ OR ITS EXHIBITS, NOR SHALL THEY QUALIFY THEIR RFQ RESPONSE.**



PROPOSER INFORMATION AND ACCEPTANCE

1. The undersigned declares that all RFP documents, including, without limitation, the RFP, Addenda, and Exhibits, have been read and that the terms, conditions, certifications, and requirements are agreed to.
2. The undersigned is authorized to offer, and agrees to furnish, the articles and services specified in accordance with the RFP documents.
3. The undersigned acknowledges acceptance of all addenda related to this RFP. List Addenda for this RFP on the line below:

Addendum #	Date

4. The undersigned hereby certifies to the District that all representations, certifications, and statements made by the Proposer, as set forth in this RFP Response Packet and attachments, are true and correct and are made under penalty of perjury pursuant to the laws of California.
5. The undersigned acknowledges that the Proposer is, and will be, in good standing in the State of California, with all the necessary licenses, permits, certifications, approvals, and authorizations necessary to perform all obligations in connection with this RFP and associated RFP documents.
6. It is the responsibility of each Proposer to be familiar with all of the specifications, terms, and conditions and, if applicable, the site condition. By the submission of an RFP response, the Proposer certifies that if awarded a contract it will make no claim against the District based upon ignorance of conditions or misunderstanding of the specifications.
7. Patent indemnity: General or Professional Service Providers who do business with the District shall hold the District, its Directors, officers, agents, and employees harmless from liability of any nature or kind, including cost and expenses, for infringement or use of any patent, copyright or other proprietary right, secret process, patented or unpatented invention, article, or appliance furnished or used in connection with the contract or purchase order.

8. Insurance certificates are not required at the time of submission. However, by signing Exhibit A – RFP Response Packet, the Proposer agrees to meet the minimum insurance requirements stated in the RFP. This documentation must be provided to the District prior to execution of an agreement by the District, and shall include an insurance certificate which meets the minimum insurance requirements, as stated in the RFP.
9. The undersigned acknowledges that RFP responses, in whole or in part, are NOT to be marked confidential or proprietary. The District may refuse to consider any RFP response or part thereof so marked. RFP responses submitted in response to this RFP may be subject to public disclosure. The District shall not be liable in any way for disclosure of any such records.
10. The undersigned Proposer hereby submits this RFP response and binds itself to the District. The RFP, subsequent Addenda, Proposers Response Packet, and any attachments, shall be used to form the basis of a Contract, which once executed shall take precedence.
11. The undersigned acknowledges **ONE** of the following (please check only one box)*:
 - Proposer is not an SBE and is ineligible for any Proposal preference; **OR**
 - Proposer is an SBE or DVBE as described in the Contract Equity Program (CEP) and Equal Employment Opportunity (EEO) Guidelines, and has completed the CEP and EEO forms at the hyperlink contained in the CEP and EEO section of this Exhibit A.

*If no box is checked it will be assumed that the Proposer is ineligible for Proposal preference and none will be given. For additional information on SBE Proposal preference please refer to the Contract Equity Program and Equal Employment Opportunity Guidelines at the above referenced hyperlink.

Official Name of Proposer (exactly as it appears on Proposer's corporate seal and invoice): _____

Street Address Line 1: _____

Street Address Line 2: _____

City: _____ State: _____ Zip Code: _____

Webpage: _____

Type of Entity / Organizational Structure (check one):

- | | |
|--|--|
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Joint Venture |
| <input type="checkbox"/> Limited Liability Partnership | <input type="checkbox"/> Partnership |
| <input type="checkbox"/> Limited Liability Corporation | <input type="checkbox"/> Non-Profit / Church |
| <input type="checkbox"/> Other: _____ | |

Jurisdiction of Organization Structure: _____

Date of Organization Structure: _____

Federal Tax Identification Number: _____

Department of Industrial Relations (DIR) Registration Number: _____

Primary Contact Information:

Name / Title: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

Street Address Line 1: _____

City: _____ State: _____ Zip Code: _____

SIGNATURE: _____

Name and Title of Signer (printed): _____

Dated this _____ day of _____ 20_____

BIDDING SHEET FOR FM&O BACKHOES

Item	Quantity	Description	Hourly Rate	Total
1.	Approx. 2,000 hrs.	<u>Alameda/Contra Costa County:</u> Rental of rubber-tired tractor backhoe(s), of which at least one shall be an extend-a-hoe, with all standard-size buckets, fully maintained and operated, for the District's Central, East, North and South Area Service Areas, Basic Rate at:	\$	\$
2.	One-Time Transportation Cost To/From site	<u>Total cost of transportation to and from site:</u> Includes all fuel costs, offloading/on loading, necessary pilot vehicles for DOT compliance, etc.	N/A	\$
3.	N/A	<u>Hoe Ram</u>	\$	N/A
4.	N/A	<u>Sheepsfoot</u>	\$	N/A
TOTAL AMOUNT BID			\$	

Item	Additional Rates	Hourly Rate
1.	Saturdays	\$
2.	Sundays	\$
3.	Holidays - District-recognized holidays	\$
4.	Other (i.e. delivery charge, additional equipment charges)	\$

Discount(s) _____

Any discount or discounts offered by the bidder must allow for payment 15 days after receipt of correct invoice.

QUESTIONNAIRE

The bidder shall supply the following information:

CONTACT PERSONS FOR ORDERING EQUIPMENT

Name _____ Telephone Number _____

Name _____ Telephone Number _____

Contact person must be available twenty-four (24) hours a day.

EQUIPMENT

I. Tractor Backhoes:

Quantity available

Tractors: Make, model, and year:

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

Backhoes: Make and Model _____

Bucket widths _____

II. Location where equipment may be inspected:

Street Address

City

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

III. OPERATORS

List names and years of service of operators who will perform work under this contract.

	Name	Years Employed
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____
6.	_____	_____

V. TYPE OF CONTRACTOR'S LICENSE:

- 1. C-12 _____
- 2. Engineering A _____

BIDDING SHEET FOR EARTHMOVING SERVICES WITHIN ALAMEDA AND CONTRA COSTA COUNTIES

Item	Quantity	List Each Piece of Heavy Equipment Related To Earth Moving Which Your Firm Can Provide	Hourly Rate	Total
1.	Approx. 200 hrs.		\$	\$
2.	Approx. 200 hrs.		\$	\$
3.	Approx. 200 hrs.		\$	\$
4.	Approx. 200 hrs.		\$	\$
5.	Approx. 200 hrs.		\$	\$
6.	Approx. 200 hrs.		\$	\$
7.	One-Time Transportation Cost To/From site	<u>Total cost of transportation to and from site:</u> Includes all fuel costs, offloading/on loading, necessary pilot vehicles for DOT compliance, etc.	N/A	\$
TOTAL AMOUNT BID			\$	

Item	Additional Rates	Hourly Rate
1.	Saturdays	\$
2.	Sundays	\$
3.	Holidays - District-recognized holidays	\$

Discount(s) _____

Any discount or discounts offered by the bidder must allow for payment 15 days after receipt of correct invoice.

QUESTIONNAIRE

The bidder shall supply the following information:

CONTACT PERSONS FOR ORDERING EARTHMOVING SERVICES:

Name _____ Telephone Number _____

Name _____ Telephone Number _____

Contact person must be available twenty-four (24) hours a day.

EQUIPMENT

I. Please describe the type of equipment available:

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____

II. Location where equipment may be inspected:

- | | <u>Street Address</u> | <u>City</u> |
|----|-----------------------|-------------|
| 1. | _____ | _____ |
| 2. | _____ | _____ |
| 3. | _____ | _____ |
| 4. | _____ | _____ |
| 5. | _____ | _____ |
| 6. | _____ | _____ |

III. OPERATORS

List names and years of service of operators who will perform work under this contract.

- | | Name | Years Employed |
|----|-------|----------------|
| 1. | _____ | _____ |
| 2. | _____ | _____ |
| 3. | _____ | _____ |
| 4. | _____ | _____ |

5. _____

6. _____

V. TYPE OF CONTRACTOR'S LICENSE:

1. C-12 _____

2. Engineering A _____



REQUIRED DOCUMENTATION AND SUBMITTALS

All of the specific documentation listed below is required to be submitted. Proposers shall submit all documentation, in the order listed below. *The District reserves the right, at any time during the term of the contract, to re-request any of the required documentation or to ask that drivers demonstrate their proficiency on equipment which they will operate in the performance of their duties for the District.*

- Prevailing Wage Agreement
- Statement of Responsibility
- Certificate of Liability Insurance (to be submitted when assigned to the active list)
- Certificate of Worker's Compensation (to be submitted when assigned to the active list)
- Certificate of Pollution Liability (to be submitted when assigned to the active list)

1. **Exceptions, Clarifications, Amendments:**

- (a) The RFP response shall include a separate section calling out all clarifications, exceptions, and amendments, if any, to the RFP and associated RFP documents, which shall be submitted with the proposer's RFP response using the template in the "Exceptions, Clarifications, Amendments" section of this Exhibit A – RFP Response Packet.
- (b) **THE DISTRICT IS UNDER NO OBLIGATION TO ACCEPT ANY EXCEPTIONS, AND SUCH EXCEPTIONS MAY BE A BASIS FOR RFP RESPONSE DISQUALIFICATION.**

2. **Contract Equity Program:**

- (a) Every proposer must fill out, sign, and submit the appropriate sections of the Contract Equity Program and Equal Employment Opportunity documents located at the hyperlink contained in the last page of this Exhibit A. Special attention should be given to completing Form P-25, "Employment Data and Certification". Any proposer needing assistance in completing these forms should contact the District's Contract Equity Office at (510) 287-0114 prior to submitting an RFP response.



REFERENCES

RFP No. PUR 100 - Fully Maintained and Operated Backhoe and Earthmoving Services

Proposer Name: _____

Company Name:	Contact Person:
Address:	Telephone Number:
City, State, Zip:	E-mail Address:
Services Provided / Date(s) of Service:	

Company Name:	Contact Person:
Address:	Telephone Number:
City, State, Zip:	E-mail Address:
Services Provided / Date(s) of Service:	

Company Name:	Contact Person:
Address:	Telephone Number:
City, State, Zip:	E-mail Address:
Services Provided / Date(s) of Service:	

Company Name:	Contact Person:
Address:	Telephone Number:
City, State, Zip:	E-mail Address:
Services Provided / Date(s) of Service:	

Company Name:	Contact Person:
Address:	Telephone Number:
City, State, Zip:	E-mail Address:
Services Provided / Date(s) of Service:	



CONTRACT EQUITY PROGRAM & EQUAL EMPLOYMENT OPPORTUNITY

The District's Board of Directors adopted the Contract Equity Program (CEP) to enhance equal opportunities for business owners of all races, ethnicities, and genders who are interested in doing business with the District. The program has contracting objectives, serving as the minimum level of expected contract participation for the three availability groups: white-men owned businesses, white-women owned businesses, and ethnic minority owned businesses. The contracting objectives apply to all contracts that are determined to have subcontracting opportunities and to all General or Professional Service Providers regardless of their race, gender, or ethnicity.

All Contractors and their subcontractors performing work for the District must be Equal Employment Opportunity (EEO) employers, and shall be bound by all laws prohibiting discrimination in employment. There shall be no discrimination against any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, gender including gender identity or expression, age, marital or domestic partnership status, mental disability, physical disability (including HIV and AIDS), medical condition (including genetic characteristics or cancer), genetic information, or sexual orientation.

Contractor and its subcontractors shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin in the performance of this contract. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

All Contractors shall include the nondiscrimination provisions above in all subcontracts.

Please include the required completed forms with your proposal. Non-compliance with the Guidelines may deem a proposal non-responsive, and therefore, ineligible for contract award. Your firm is responsible for:

- 1) Reading and understanding the CEP guidelines.
- 2) Filling out and submitting with your bid the appropriate forms.

The CEP guidelines and forms can be found at the following direct link:

[Contract Equity Program Guidelines and Forms](#)

The CEP guidelines and forms can also be downloaded from the District website at the following link:

<http://ebmud.com/business-center/contract-equity-program/>

If you have questions regarding the Contract Equity Program please call (510) 287-0114.



EXHIBIT B

INSURANCE REQUIREMENTS

Insurance certificates are not required at the time of submission; however, by signing Exhibit A – RFP Response Packet, the Proposer agrees to meet the minimum insurance requirements stated in the RFP. This documentation must be provided to the District, prior to award.

The following are the minimum insurance limits, required by the District, to be held by the GENERAL OR PROFESSIONAL SERVICE PROVIDER performing on this RFP:

INDEMNIFICATION AND INSURANCE

A. Indemnification

GENERAL OR PROFESSIONAL SERVICE PROVIDER expressly agrees to defend, indemnify, and hold harmless the District and its Directors, officers, agents, and employees from and against any and all loss, liability, expense, claims, suits, and damages, including attorneys' fees, arising out of or resulting from GENERAL OR PROFESSIONAL SERVICE PROVIDER's, its associates', employees', subcontractors', or other agents' negligent acts, errors or omissions, or willful misconduct, in the operation and/or performance under this Agreement.

B. Insurance Requirements

GENERAL OR PROFESSIONAL SERVICE PROVIDER shall take out and maintain during the life of the Agreement all the insurance required in this section, and if requested shall submit certificates for review and approval by the District. The Notice to Proceed shall not be issued, and GENERAL OR PROFESSIONAL SERVICE PROVIDER shall not commence work until such insurance has been approved by the District. The certificates shall be on forms approved by the District. Acceptance of the certificates shall not relieve GENERAL OR PROFESSIONAL SERVICE PROVIDER of any of the insurance requirements, nor decrease the liability of GENERAL OR PROFESSIONAL SERVICE PROVIDER. The District reserves the right to require GENERAL OR PROFESSIONAL SERVICE PROVIDER to provide insurance policies for review by the District.

C. Workers Compensation Insurance

GENERAL OR PROFESSIONAL SERVICE PROVIDER shall take out and maintain during the life of the Agreement Workers Compensation Insurance for all of its employees on the project. In lieu of evidence of Workers Compensation Insurance, the District will accept a Self-Insured Certificate from the State of California. GENERAL OR PROFESSIONAL SERVICE PROVIDER shall require any subcontractor to provide it with evidence of Workers Compensation Insurance.

D. Commercial General Liability Insurance

GENERAL OR PROFESSIONAL SERVICE PROVIDER shall take out and maintain during the life of the Agreement Automobile and General Liability Insurance that provides protection from claims which may arise from operations or performance under this Agreement. If GENERAL OR PROFESSIONAL SERVICE PROVIDER elects to self-insure (self-fund) any liability exposure during the contract period above \$50,000, GENERAL OR PROFESSIONAL SERVICE PROVIDER is required to notify the District immediately. Any request to self-insure must first be approved by the District before the changed terms are accepted. GENERAL OR PROFESSIONAL SERVICE PROVIDER shall require any subcontractor or Professional Service Provider to provide evidence of liability insurance coverages.

The amounts of insurance shall be not less than the following:

\$2,000,000/Occurrence, Bodily Injury, Property Damage -- Automobile.

\$2,000,000/Occurrence, Bodily Injury, Property Damage -- General Liability.

The following coverages or endorsements must be included in the policy(ies):

1. The District, its Directors, officers, and employees are Additional Insureds in the policy(ies) as to the work being performed under the contract.
2. The coverage is *Primary and non-contributory* to any other applicable insurance carried by the District.
3. The policy(ies) covers *contractual liability*.
4. The policy(ies) is written on an *occurrence* basis.
5. The policy(ies) covers the District's Property in Consultant's care, custody, and control.
6. The policy(ies) covers *personal injury* (libel, slander, and wrongful entry and eviction) liability.
7. The policy(ies) covers explosion, collapse, and underground hazards.
8. The policy(ies) covers *products and completed operations*.
9. The policy(ies) covers the use of *owned, non-owned*, and hired automobiles.
10. The policy(ies) and/or a separate pollution liability policy(ies) shall cover pollution liability for claims related to the release or the threatened release of pollutants into the environment arising out of or resulting from Consultant's performance under this agreement.

The policy(ies) will not be canceled nor the above coverages/endorsements reduced without 30 days written notice to East Bay Municipal Utility District at the address above.

GENERAL REQUIREMENTS**CONTENTS**

1. DEFINITIONS
2. BOND
3. CONTRACTOR'S FINANCIAL OBLIGATION
4. SAMPLES OR SPECIMENS
5. MATERIAL AND WORKMANSHIP
6. DEFECTIVE WORK
7. WARRANTY OF TITLE
8. WARRANTY OF FITNESS
9. SAFETY AND ACCIDENT PREVENTION
10. CHARACTER OF WORKFORCE
11. PREVAILING WAGES
12. PAYROLL RECORDS
13. HOURS OF LABOR
14. EMPLOYMENT OF APPRENTICES
15. CHANGES
16. EFFECT OF EXTENSIONS OF TIME
17. DELAYS
18. TERMINATION
19. DAMAGES
20. ORDER OF PRECEDENCE
21. INDEMNIFICATION/RESPONSIBILITY
22. ASSIGNMENTS
23. NEWS RELEASES
24. TRANSFER OF INTEREST
25. SEVERABILITY
26. COVENANT AGAINST GRATUITIES
27. RIGHTS AND REMEDIES OF THE DISTRICT
28. WAIVER OF RIGHTS
29. CONFIDENTIALITY

1. DEFINITIONS

The following terms shall be given the meaning shown, unless context requires otherwise or a unique meaning is otherwise specified.

- a. **"Change Order"** A Change Order is a written instrument used for modifying the contract with regards to the scope of Work, contract sum, and/or Contract Time. An approved Change Order is a Change Order signed by the District. An executed Change Order is a Change Order signed by both the District and the Contractor.

- b. **“Contract”** means the agreement between the District and Contractor as memorialized in the Contract Documents.
- c. **“Business Entity”** means any individual, business, partnership, joint venture, corporation, sole proprietorship, or other private legal entity recognized by statute.
- d. **“Buyer”** means the District’s authorized contracting official.
- e. **“Contract Documents”** comprise the entire agreement between the District and the Contractor and can include the District’s contract form if used, any purchase order, RFP, RFQ or Contractor response packet, and any addenda, appendices and District approved changes or amendments. The Contract Documents are intended to be complementary and include all items necessary for the Contractor’s proper execution and completion of the Work. Any part of the Work not shown or mentioned in the Contract Documents that is reasonably implied, or is necessary or usual for proper performance of the Work, shall be provided by the Contractor at its expense.
- f. **“Contractor”** means the Business Entity with whom the District enters into a contractual agreement. Contractor shall be synonymous with “supplier”, “vendor”, “consultant” or other similar term.
- g. **“Day”** unless otherwise specified, days are calendar days, measured from midnight to the next midnight.
- h. **“District”** means the East Bay Municipal Utility District, its employees acting within the scope of their authority, and its authorized representatives.
- i. **“Force Account”** means the method of compensation for Work performed that is billed at actual cost for labor, materials, equipment, taxes and other costs plus a specified percentage of markup for overhead and profit. Compensation rate for certain cost elements may be specified in the Contract.
- j. **“Goods”** means off the shelf software and all types of tangible personal property, including but not limited to materials, supplies, and equipment.
- k. **“Project Manager”** shall be the District designated individual responsible for administering and interpreting the terms and conditions of the Contract Documents, for matters relating to the Contractor’s performance under the Contract with the District, and for liaison and coordination between the District and Contractor.
- l. **“Work”** means all labor, tasks, materials, supplies, and equipment required to properly fulfill the Contractor’s obligations as required in the Contract Documents.
- m. **“Work Day”** Unless otherwise specified, work day includes all days of the year except Saturdays, Sundays and District holidays.

2. BOND

- a. When required in the District’s bid or proposal solicitation documents, the Contractor to whom award is made shall furnish a good and approved faithful performance bond

and/or payment bond within ten business days after receiving the forms for execution.

- b. The bonds shall be executed by a sufficient, admitted surety insurer (i.e.: as listed on website [http://interactive.web.insurance.ca.gov/webuser/idb_co_list\\$.startup](http://interactive.web.insurance.ca.gov/webuser/idb_co_list$.startup)) admitted to transact such business in California by the California Department of Insurance. After acceptance of the bond(s) by the District, a copy of the bond(s) will be returned to the Contractor.
- c. If, during the continuance of the Contract, any of the sureties, in the opinion of the District, are or become irresponsible, the District may require other or additional sureties, which the Contractor shall furnish to the satisfaction of the District within ten days after notice. If the Contractor fails to provide satisfactory sureties within the ten-day period, the Contract may be terminated for cause under Article 18.

3. CONTRACTOR'S FINANCIAL OBLIGATION

The Contractor shall promptly make payments to all persons supplying labor and materials used in the execution of the contract.

4. SAMPLES OR SPECIMENS

The Contractor shall submit samples or prepare test specimens of such materials to be furnished or used in the work as the Project Manager may require.

5. MATERIAL AND WORKMANSHIP

- a. All goods and materials must be new and of the specified quality and equal to approved sample, if samples have been required. In the event any goods or materials furnished or services provided by the Contractor in the performance of the Contract fail to conform to the requirements, or to the sample submitted by the Contractor, the District may reject the same, and it shall become the duty of the Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to the District, and immediately replace all such rejected items with others conforming to the Contract. All work shall be done and completed in a thorough, workmanlike manner, notwithstanding any omission from these specifications or the drawings, and it shall be the duty of the Contractor to call attention to apparent errors or omissions and request instructions before proceeding with the work. The Project Manager may, by appropriate instructions, correct errors and supply omissions, which instructions shall be binding upon the Contractor as though contained in the original Contract Documents.
- b. All materials furnished and all Work must be satisfactory to the Project Manager. Work, material, or machinery not in accordance with the Contract Documents, in the opinion of the Project Manager, shall be made to conform.

6. DEFECTIVE WORK

The Contractor shall replace at its own expense any part of the work that has been improperly executed, as determined by the Project Manager. If Contractor refuses or neglects to replace such defective work, it may be replaced by the District at the expense of the Contractor, and its sureties shall be liable therefor.

7. WARRANTY OF TITLE

Contractor shall warrant to the District, its successors and assigns, that the title to the materials, supplies or equipment covered by the Contract, when delivered to the District or to its successors or assigns, is free from all liens and encumbrances.

8. WARRANTY OF FITNESS

Contractor hereby warrants that all materials furnished shall meet the requirements and conditions of the Contract Documents; shall be fit for the purposes intended and fulfill its design functions; be free of all patent and latent defects in design, materials and workmanship; and perform satisfactorily. It is understood and agreed that by acceptance of this warranty and the acceptance of the materials or supplies to be manufactured or assembled pursuant to these specifications, the District does not waive any warranty either expressed or implied in Sections 2312 to 2317, inclusive, of the Commercial Code of the State of California or any products liability of the Contractor as determined by any applicable decision of a court of the State of California or of the United States.

9. SAFETY AND ACCIDENT PREVENTION

In performing work under the Contract on District premises, Contractor shall conform to any specific safety requirements contained in the Contract or as required by law or regulation. Contractor shall take any additional precautions as the District may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Contract or Contractor's right to precede in accordance with the default provisions of the Contract Documents.

10. CHARACTER OF WORKFORCE

The Contractor shall employ none but skilled competent qualified personnel to perform the Work, and shall maintain discipline and order in the conduct of the Work at all times.

11. PREVAILING WAGES & DIR REGISTRATION

- a. Please see www.dir.ca.gov for further information regarding the below.
- b. All Contractors and Subcontractors of any tier bidding on, or offering to performing work on a public works project shall first be registered with the State Department of Industrial Relations (DIR) pursuant to Section 1725.5 of the Labor Code. No bid will be accepted nor any contract entered into without proof of the Contractor and Subcontractors' current registration with the DIR (LC § 1771.1).
- c. All public works projects awarded after January 1, 2015, are subject to compliance monitoring and enforcement by the DIR (LC § 1771.4) and all Contractors are required post job site notices, "as prescribed by regulation" (LC § 1771.4).
- d. To the extent applicable, pursuant to Section 1773 of the Labor Code, the District has obtained from the Director of Industrial Relations of the State of California, the general prevailing rates of per diem wages and the general prevailing rates for holiday and overtime work in the locality in which the Work is to be performed, for each craft, classification, or type of worker needed to execute the contract. Pursuant to Section

1773.2 of the Labor Code, a copy of the prevailing wage rates is on file with the District and available for inspection by any interested party at www.dir.ca.gov.

- e. The holidays upon which such rates shall be paid shall be all holidays recognized in the collective bargaining agreement applicable to the particular craft, classification, or type of worker employed on the Work.
- f. The Contractor shall post a copy of the general prevailing rate of per diem wages at the jobsite pursuant to Section 1773.2 of the Labor Code.
- g. Pursuant to Section 1774 of the Labor Code, the Contractor and any of its Subcontractors shall not pay less than the specified prevailing rate of wages to all workers employed in the execution of the contract.
- h. As set forth with more specificity in Section 1773.1 of the Labor Code, "per diem" wages include employer payments for health and welfare, pension, vacation, travel, subsistence and, in certain instances, apprenticeship or other training programs, and shall be paid at the rate and in the amount spelled out in the pertinent prevailing wage determinations issued by the Director of Industrial Relations.
- i. The Contractor shall, as a penalty to the State or the District, forfeit not more than the maximum set forth in Section 1775 of the Labor Code for each calendar day, or portion thereof, for each worker paid less than the prevailing rates for the work or craft in which the worker is employed under the contract by the Contractor or by any Subcontractor under him. The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which such worker was paid less than the stipulated prevailing wage rate shall be paid to such worker by the Contractor.
- j. The specified wage rates are minimum rates only and the District will not consider and shall not be liable for any claims for additional compensation made by the Contractor because of its payment of any wage rate in excess of the general prevailing rates. All disputes in regard to the payment of wages in excess of those specified herein shall be adjusted by the Contractor at its own expense.
- k. General prevailing wage determinations have expiration dates with either a single asterisk or a double asterisk. Pursuant to California Code of Regulations, Title 8, Section 16204, the single asterisk means that the general prevailing wage determination shall be in effect for the specified contract duration. The double asterisk means that the predetermined wage modification shall be paid after the expiration date. No adjustment in the Contract Sum will be made for the Contractor's payment of these predetermined wage modifications.

12. PAYROLL RECORDS & ELECTRONIC SUBMISSION

- a. The Contractor and each Subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed in connection with the Work. The payroll records shall be certified and shall be available for inspection in accordance with the provisions of Section 1776 of the Labor Code. Certified payroll

records shall be on the forms provided by the DIR or contain the same information required on the Department's form.

- b. The Contractor shall submit for each week in which any contract Work is performed a copy of all payroll records to the Project Manager. The Contractor shall be responsible for submission of copies of payroll records of all Subcontractors.
- c. The Contractor or Subcontractor shall certify the payroll records as shown on the DIR form. In addition, the records shall be accompanied by a statement signed by the Contractor or Subcontractor certifying that the classifications truly reflect the Work performed and that the wage rates are not less than those required to be paid.
- d. For public works projects awarded on or after April 1, 2015, or that are still ongoing after April 1, 2016, no matter when awarded, each Contractor and Subcontractor shall furnish the certified payroll related records as more specifically described above and in Labor Code section 1776 directly to the Labor Commissioner (see LC § 1771.4). These records shall be provided to the Labor Commissioner at least monthly or more frequently if required by the terms of the Contract. For exception on projects covered by collective bargaining agreements like a PLA, please see Labor Code section 1771.4.
- e. In the event of noncompliance with the requirements of Section 1776 of the Labor Code, the Contractor shall have 10 days in which to comply subsequent to receipt of written notice specifying in what respects such Contractor must comply with said Section. Should noncompliance still be evident after such 10-day period, the Contractor shall, as a penalty to the State or the District, forfeit the amount set forth in Section 1776 of the Labor Code for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payments then due.
- f. The Contractor and every Subcontractor shall post at the workplace and comply with all required wage related workplace postings. Copies of the required postings may be downloaded or ordered electronically from the Department of Industrial Relations website at <http://www.dir.ca.gov/wpnodb.html>.

13. HOURS OF LABOR

Pursuant to the provisions of Sections 1810, et seq. of the Labor Code and any amendments thereof:

- a. Eight hours of labor constitutes a legal day's Work under the contract.
- b. The time of service of any worker employed upon the work shall be limited and restricted to eight hours during any one calendar day, and forty hours during any one calendar week except as provided in Article 13.iv below.
- c. The Contractor shall, as a penalty to the State or the District, forfeit the amount set forth in Section 1813 of the Labor Code for each worker employed in the execution of the contract by the Contractor or by any Subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week in violation of this Article and the

provisions of Labor Code, Sections 1810, et seq.

- d. Work performed by employees of the Contractor in excess of eight hours per day, and forty hours during any one calendar week, shall be permitted upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.
- e. The Contractor and every Subcontractor shall keep an accurate record showing the name of and the actual hours worked each calendar day and each calendar week by each worker employed by him in connection with the Work; the record shall be kept open at all reasonable hours to the inspection of the District and to the Division of Labor Standards Enforcement of the State of California.

14. EMPLOYMENT OF APPRENTICES

- a. In the performance of the contract, the Contractor and any Subcontractor shall comply with the provisions concerning the employment of apprentices in Section 1777.5 of the Labor Code and any amendments thereof.
- b. In the event the Contractor or any Subcontractor willfully fails to comply with the aforesaid section, such Contractor or Subcontractor shall be subject to the penalties for noncompliance in Labor Code, Section 1777.7.

15. CHANGES

- a. Changes in the Work can only be made in writing signed by an authorized employee of the District. If the change causes an increase or decrease in the contract sum, or a change in the time for performance under the Contract, an adjustment may be made as determined by the Project Manager.
- b. The District reserves the right to make changes in the design of materials, equipment, or machinery, to make alterations or additions to or deviations or subtractions from the Contract and any specifications and drawings, to increase or decrease the required quantity of any item or portion of the Work or to omit any item or portion of the Work, as may be deemed by the Project Manager to be necessary or advisable and to order such extra work as may be determined by the Project Manager to be required for the proper execution and completion of the whole Work contemplated. Any such changes will be ordered in writing by the Project Manager. The determination of the Project Manager on all questions relating to changes, including extra work, shall be conclusive and binding.
- c. Prior to issuing an amendment or change, or Change Order to the Contract, the Project Manager may request that the Contractor submit a proposal covering the changes. Within 10 business days of receiving the request, the Contractor shall submit its proposal to the Project Manager of all costs associated with the proposed amendment or change and any request for an extension of Contract time. Contractor's proposal shall include detailed estimates with cost breakdowns, including labor, material, equipment, overhead, and profit. Labor shall be broken down into hours and rate per hour. If applicable, the proposal shall include a breakdown for off-site labor (including factory labor, engineering, etc.). The Contractor's proposal shall include an analysis of schedule impact when the Contractor is requesting an adjustment in contract time. The

Contractor shall be responsible for any delay associated with its failure to submit its change proposal within the time specified. If the Project Manager decides not to issue an amendment or change after requesting a proposal from the Contractor, the Contractor will be notified in writing. The Contractor is not entitled to reimbursement for Change Order preparation costs if the Contractor's proposal is not accepted by the Project Manager.

- d. If the Contractor agrees with the terms and conditions of the approved Change Order, the Contractor shall indicate its acceptance by signing the original copy and returning it to the Project Manager within 10 Work Days after receipt or with reasonable promptness and in such sequence as to not delay the Work or activities of the District or of separate contractors, whichever is sooner. If notice of any change is required to be given to a surety by the provisions of any bond, the Contractor shall provide notice and the amount of each applicable bond shall be adjusted separately. Payment in accordance with the terms and conditions set forth in the executed Change Order shall constitute full compensation for all Work included in the Change Order and the District will be released from any and all claims for direct, indirect, and impact expenses and additional time impact resulting from the Work. If the Contractor disagrees with the terms and conditions of the approved Change Order, the Contractor shall indicate specific areas of disagreement and return the approved Change Order to the Project Manager with a detailed written dispute. No payment will be made on the disputed work until the approved Change Order is returned to the Project Manager. However, whether or not the Contractor agrees with the terms and conditions of an approved Change Order, the Contractor shall immediately revise its sequence of operations as required to facilitate timely completion of the changed work and shall proceed with the revised work sequence.
- e. The Project Manager may, after having received a written cost quotation from the Contractor, order the Contractor, in writing, to proceed with the work prior to issuance of an approved Change Order through a change directive. The change directive will authorize the Contractor to proceed with the work subject to the cost quotation submitted by the Contractor. Within five days following receipt of the change directive, the Contractor shall submit a detailed change proposal documenting the amount of compensation. The Project Manager will review the change proposal and, at its option, will either issue an approved Change Order for the work or direct the Contractor to perform the work through Force Account. Until the method of compensation is determined and the approved Change Order is received, the Contractor shall keep full and complete time and material records of the cost of the ordered work and shall permit the Project Manager to have access to such records. An approved Change Order shall supersede any previously issued written change directive covering the same Work.

16. EFFECT OF EXTENSIONS OF TIME

The granting, or acceptance, of extensions of time to complete the Work or furnish the labor, supplies, materials or equipment, or any one of the aforementioned, will not operate as a release of Contractor or the surety on Contractor's faithful performance bond.

17. DELAYS

- a. The Contractor shall take reasonable precautions to foresee and prevent delays to the Work. When the Contractor foresees a delay event, and upon the occurrence of a delay

event, the Contractor shall immediately notify the Project Manager of the probability or the actual occurrence of a delay, and its cause. With respect to all delays (compensable, excusable or inexcusable), the Contractor shall reschedule the Work and revise its operations, to the extent possible, to mitigate the effects of the delay. Within 15 days from the beginning of a delay the Contractor shall provide the Project Manager with a detailed written description of the delay, its cause, its impact and the Contractor's mitigation plans. Failure to provide the notification required above waives the Contractor's right to any additional time or compensation resulting from the delay for whatever cause. The Project Manager will investigate the facts and ascertain the extent of the delay, and the Project Manager's findings thereon shall be final and conclusive, except in the case of gross error. An extension of time must be approved by the Project Manager to be effective, but an extension of time, whether with or without consent of the sureties, shall not release the sureties from their obligations, which shall remain in full force until the discharge of the contract.

- b. For inexcusable delays (delays caused by circumstances within the Contractor's control, the control of its subcontractors or supplies of any tier, or within the scope of the Contractor's contract responsibilities) the Contractor shall not be entitled to an extension of time or additional compensation for any loss, cost, damage, expense or liability resulting directly or indirectly from the inexcusable delay.
- c. For excusable delays (delays to completion of the Work within the time limits set forth in the Contract Documents directly caused by events beyond the control of both the Contractor and the District, which delay is not concurrent with an inexcusable delay and which could not have been avoided by the Contractor through reasonable mitigation measures) the Project Manager will grant the Contractor an extension of time in an amount equal to the period of the excusable delay based on the analysis of schedule impact and delay analysis diagram, which shall be the Contractor's sole and exclusive remedy for such delay. Excusable delays shall include labor strikes, adverse weather, or Acts of God which directly affect the Contractor's performance.
- d. For compensable delays (delays to completion of the Work within the time limits set forth in the Contract Documents that could not be avoided by Contractor mitigation, caused directly and solely by the District or by causes within the exclusive control of the District, and which were not concurrent with any other type of delay) the Project Manager will grant the Contractor an extension of the time to perform under the Contract and compensation in an amount that represents the Contractor's actual direct costs incurred as a direct result of the compensable delay. The Contractor may recover its direct costs only and may not recover (and waives) all other types of indirect, consequential, special and incidental damages.
- e. For concurrent delays (two or more independent causes of delay directly preventing the Contractor from completing the Work within the time limits set forth in the Contract Documents where the delays occur at the same time during all or a portion of the delay period being considered, and where each of the delays would have caused delay to the Contractor even in the absence of any of the other delays, and none of the delays could have been avoided by Contractor mitigations) the following rules apply:
 - i. One or more of the concurrent delays are excusable or compensable, then the period of concurrent delay will be treated as an excusable delay; and

- ii. All of the concurrent delays are inexcusable, then the period of concurrent delay will be inexcusable.

18. TERMINATION

a. Termination by the District for Cause:

- i. District may terminate the Contractor's right to proceed under the Contract, in whole or in part, for cause at any time after the occurrence of any of the following events, each of which constitutes a default:
 - 1. The Contractor becomes insolvent or files for relief under the bankruptcy laws of the United States.
 - 2. The Contractor makes a general assignment for the benefit of its creditors or fails to pay its debts as the same become due.
 - 3. A receiver is appointed to take charge of the Contractor's property.
 - 4. The Contractor fails to supply skilled supervisory personnel, an adequate number of properly skilled workers, proper materials, or necessary equipment to prosecute the Work in accordance with the Contract Documents.
 - 5. The Contractor fails to make progress so as to endanger performance of the Work within the contractually required time.
 - 6. The Contractor disregards legal requirements of agencies having jurisdiction over the Work, the Contractor, or the District.
 - 7. The Contractor fails to provide the District with a written plan to cure a District identified default within five business days after the District's request for a plan to cure; the District does not accept the Contractor's plan for curing its default;, or the Contractor does not fully carry out an accepted plan to cure.
 - 8. The Contractor abandons the Work. Abandonment is conclusively presumed when the District requests a written plan to cure a default and the Contractor does not submit the plan within five business days of the District's request.
 - 9. The Contractor materially fails to meet its obligations in accordance with the Contract Documents.
 - 10. The Contractor is in default of any other material obligation under the Contract Documents.

- ii. If any of the above events occur, the District may, in its discretion, require that the Contractor submit a written plan to cure its default, which plan must be provided to the District within 5 business days of the request and must include a realistic, executable plan for curing the noted defaults.
 - iii. Upon any of the occurrences referred to in Article 18.a.i. above, the District may, at its election and by notice to the Contractor, terminate the Contract in whole or in part; accept the assignment of any or all of the subcontracts; and then complete the Work by any method the District may deem expedient. If requested by the District, the Contractor shall remove any part or all of the Contractor's materials, supplies, equipment, tools, and machinery from the site of the Work within seven days of such request; and, if the Contractor fails to do so, the District may remove or store, and after 90 days sell, any of the same at the Contractor's expense.
 - iv. No termination or action taken by the District after termination shall prejudice any other rights or remedies of the District provided by law or by the Contract Documents.
 - v. Conversion: If, after termination for other than convenience, it is determined that the Contractor was not in default or material breach, or that the default or material breach was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for convenience pursuant to Article 18.b. below.
- b. Termination by the District for Convenience:
- i. The District may, at its option, and for its convenience, terminate the Contract at any time by giving written notice to the Contractor specifying the effective date of termination. Upon such termination, the Contractor agrees to comply with the notice and further agrees to waive any claims for damages, including loss of anticipated profits, on account of the termination; and, as the sole right and remedy of the Contractor, the District shall pay the Contractor as set forth below.
 - ii. Upon receipt of a notice of termination for convenience, the Contractor shall, unless the notice directs otherwise, do the following:
 - 1. Immediately discontinue its performance of the Contract to the extent specified in the notice.
 - 2. Place no further orders or subcontracts for materials, equipment, services, or facilities, except as may be necessary for completion of a portion of the Work that is not discontinued or that is necessary for an orderly cessation of the Work.

3. Promptly cancel, on the most favorable terms reasonably possible, all subcontracts to the extent they relate to the performance of the discontinued portion of the Work.
 4. Thereafter, do only such Work as may be necessary to preserve and protect Work already in progress and to protect materials, plants, and equipment in transit to or on the site of performance.
- iii. Upon such termination for convenience, the District will pay to the Contractor the sum of the following:
1. The amount of the contract sum allocable to the portion of the Work properly performed by the Contractor as of the effective date of termination, less sums previously paid to the Contractor.
 2. Previously unpaid costs of any items delivered to the project site that were already fabricated for subsequent incorporation into the Work.
 3. Any proven losses with respect to materials and equipment directly resulting from the termination.
 4. Reasonable demobilization costs.
- iv. The above reimbursement is the sole and exclusive remedy to which the Contractor is entitled in the event the contract is terminated for convenience; and the Contractor expressly waives any other claims, damages, demands, compensation or recovery related to this contract or project. The Contractor agrees to sign a general release incorporating this waiver.
- c. Effect of Termination: Upon termination, the obligations of the Contract shall continue as to portions of the Work already performed and, subject to the Contractor's obligations under Article 18.b.ii, as to bona fide obligations assumed by the Contractor prior to the date of termination.
- d. Force Majeure: If the contract is suspended or terminated by the District because Contractor's performance is prevented or delayed by an event including an irresistible, superhuman cause, or by the act of public enemies of the State of California or of the United States ("Force Majeure"), the Contractor will be paid for Work performed prior to the Force Majeure event at either (i) the unit prices named in the Contract; or (ii) in the event no unit prices are named, a sum equal to the percentage of the total contract amount that matches the percentage of the total contract Work performed prior to the Force Majeure event.

19. DAMAGES

All losses or damages to material or equipment to be furnished pursuant to the Contract Documents occurring prior to receipt and final acceptance of the Work shall be sustained by the Contractor. The Contractor shall sustain all losses arising from unforeseen obstructions or difficulties, either natural or artificial, encountered in the prosecution of the Work, or from any action of the elements prior to final acceptance of the work, or from an act or omission on the part of the Contractor not authorized by the Contract Documents.

20. ORDER OF PRECEDENCE

- a. In the case of conflicts, errors, or discrepancies in any of the Contract Documents, the order of precedence is as follows. Within the same order of precedence, specific requirements shall take precedence over general requirements.
 - i. Approved Change Orders.
 - ii. Addenda.
 - iii. RFQ or RFP.
 - iv. Referenced Standard Specifications and Drawings.
 - v. Contractor's Response Packet
- b. With reference to drawings:
 - i. Numerical dimensions govern over scaled dimensions.
 - ii. Detailed drawings govern over general drawings.
 - iii. Addenda/Change Order drawings govern over contract drawings.
 - iv. Contract drawings govern over standard drawings.
 - v. Notes apply only to the drawing where the notes appear, unless classified as "typical" or intended to apply elsewhere in which case they apply to all drawings where the conditions or circumstance noted occurs.
 - vi. Typical details apply to all drawings unless a specific different detail is shown

21. INDEMNIFICATION/RESPONSIBILITY

- a. Contractor shall indemnify, keep and save harmless the District and each of its directors, officers, agents and employees against any and all suits, claims or actions arising out of any of the following:
 - i. Any injury to persons or property that may occur, or that may be alleged to have occurred, arising from the performance or implementation of this Contract; or

- ii. Any allegation that materials or services developed, provided or used for this Contract infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual-property or proprietary right of any third party.
- b. Contractor further agrees to defend any and all such actions, suits or claims and pay all charges of attorneys and all other costs and expenses of defenses as they are incurred. If any judgment is rendered, or settlement reached, against the District or any of the other agencies or individuals enumerated above in any such action, Contractor shall, at its expense, satisfy and discharge the same.
- c. This indemnification shall survive termination or expiration of the Contract.

22. PROHIBITION OF ASSIGNMENT

The Contractor shall not assign, transfer, or otherwise dispose of any of its rights, duties or obligations under this Contract.

23. NEWS RELEASES

The Contractor, its employees, subcontractors, and agents shall not refer to the District, or use any logos, images, or photographs of the District for any commercial purpose, including, but not limited to, advertising, promotion, or public relations, without the District's prior written consent. Such written consent shall not be required for the inclusion of the District's name on a customer list.

24. TRANSFER OF INTEREST

Contractor shall not assign, transfer or otherwise substitute its interest in the Contract or any of the contract obligations without prior written consent from the District.

25. SEVERABILITY

Should any part of the Contract be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of the Contract, which shall continue in full force and effect, provided that the remainder of the Contract can be interpreted to give effect to the intentions of the parties.

26. COVENANT AGAINST GRATUITIES

The Contractor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the District with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the District shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the District in procuring on the open market any items which Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the District provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.

27. RIGHTS AND REMEDIES OF THE DISTRICT

The rights and remedies of the District provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

28. WAIVER OF RIGHTS

Any action or inaction by the District or the failure of the District on any occasion, to enforce any right or provision of the Contract, shall not be construed to be a waiver by the District of its rights and shall not prevent the District from enforcing such provision or right on any future occasion. Rights and remedies are cumulative and are in addition to any other rights or remedies that the District may have at law or in equity.

29. CONFIDENTIALITY

Contractor agrees to maintain in confidence and not disclose to any person or entity, without the District's prior written consent, any trade secret or confidential information, knowledge or data relating to the products, process, or operation of the District. Contractor further agrees to maintain in confidence and not to disclose to any person or entity, any data, information, technology, or material developed or obtained by Contractor during the term of the Contract. The covenants contained in this paragraph shall survive the termination of this Contract for whatever cause.



GUIDELINES

EFFECTIVE 05 Feb 18

SUPERSEDES 23 AUG 93

LEAD DEPARTMENT PUR

GUIDELINES FOR SELECTION OF RENTAL BACKHOES

PURPOSE - The guidelines are to provide a fair, equitable, and economically sound selection process for contracting of fully maintained and operated rental backhoes.

General

Rental backhoes are contracted for on a day-to-day basis to provide additional equipment support for the District's maintenance and construction activities when demand for backhoes exceeds existing District capacity.

Potential backhoe contractors who apply are placed on a waiting list and moved to an active list as required. Backhoe contractors on the active list must meet certain requirements, such as CHP and District-approved equipment, have completed the District's application process, and have furnished required insurance certificates.

Selection Process

1. Requirements

All backhoe contractors indicating interest in District work will receive the following material and are required to take actions as noted.

- a. Transmittal letter requesting return of specific information.
- b. District guidelines for backhoe rental equipment.
- c. An agreement regarding payment of prevailing wages which must be signed, and returned.
- d. A Statement of Responsibility related to work performed for the District to be signed and returned.
- e. A request for vehicle information; copies of all required permits, licenses; and rate per hour.
- f. A Copy of the District Certificate of Public Liability Insurance. Proof of Insurance does not have to be provided until the vendor is to be assigned to the active list.
- g. Provide a list of all operators who may work on District projects. Unknown or unlisted operators must demonstrate operational proficiency prior to working on District projects.

2. Waiting List

When the informational package is completed and returned, the backhoe contractor is placed on the waiting list. At that time, the applicant is given a copy of these selection guidelines.

The waiting list will normally be limited to the first fifteen (15) firms requesting to be included. This number will vary by category based on the forecasted needs of the District. The waiting list is valid for one fiscal year. Backhoe contractors on the waiting list will be asked to renew their request each fiscal year.

Contract Administrator**3. Active List**

The active list contains those backhoe contractors that are assigned District work. Movement from the waiting list to the active list occurs when the District requests additional or replacement backhoes. The active list is valid for one fiscal year. Backhoe contractors on the active list will be asked to renew their request each fiscal year. Factors which may generate these requests include:

- a. Assessment of workload.
- b. Vacancies created by backhoe contractors requesting to be removed from the active list.
- c. Vacancies created by removal of a backhoe contractor from the active list due to poor performance or failure to adhere to District guidelines specified in paragraphs 5 and 6 or other guidelines as appropriate.
- d. Changes in cost of service.
- e. Changes in ownership.
- f. Decline Contract Equity participation.

4. Work Assignments

Work is assigned by the District, from the active list of backhoe contractors, on a cost basis, lowest first; availability; and Contract Equity participation.

Backhoe contractors on the active list are called sequentially according to their hourly rate and availability and asked to work up to a maximum of 120 hours at a time.

5. District Guidelines

- a. All backhoes must:
 - 1) Be mechanically sound and have current safety stickers, if required.
 - 2) Be properly licensed, if required.
 - 3) Have extendable booms.
 - 4) Have padded surface on foot of outrigger.
 - 5) Have 12", 18", 24" and 30" buckets (and rock teeth) available.

6) Have a sheep foot compaction wheel

7) Have a hoe ram attachment

b. All owners/operators must:

1) Have required permits and licenses.

2) Have a current copy of the CHP inspection report with equipment at all times, if required.

3) Wear prescribed safety gear at all times.

- a) Hard hat.
- b) Safety vest.
- c) Safety shoes.

4) Operate equipment in a safe manner.

5) Report to work on time.

6) Demonstrate reasonable proficiency in order to be productive.

c. Backhoe contractors are required to schedule the same operator and equipment for the duration of the job or assignment.

d. Backhoe contractors are required to notify the District in writing prior to any change in ownership or cost of service.

e. Backhoe contractors are responsible for pick up and delivery of backhoes.

f. Backhoe contractors must be able to move equipment, in a timely manner, between jobsites, if necessary.

6. Removal from Active List

Removal from the Active List may occur for a variety of reasons, including:

a. Failure to follow guidelines as described in Section 5.

b. Unauthorized use of District property or facilities.

c. Failure to secure District property or facilities.

d. Loss of District property.

e. Damaging District property.

f. Poor job performance.

PREVAILING WAGE AGREEMENT

_____ agrees to pay prevailing wages to
(Name of Company)
dump truck operators working on District projects. I understand failure to comply with the prevailing wage guidelines will result in termination of all District purchase orders and the disqualification of my company as an acceptable vendor until all applicable state laws are adhered to.

Signature

Title

Date

STATEMENT OF RESPONSIBILITY

I agree to perform services when required by EBMUD under the terms and conditions stated on the purchase order and the Statement of Responsibility as shown below. Any changes to this agreement must be agreed to in writing by the District.

The District assumes no responsibility whatsoever for loss or damage of equipment owned and/or operated by the contractor, his agents, or employees.

The entire responsibility for any and all injury to the public, to individuals, and to property resulting directly or indirectly from the performance of the work hereunder shall rest upon the contractor, and he expressly agrees to indemnify, defend, and hold the District, its Directors, officers, and employees free and harmless from and against any and all loss, liability, expense, claims, costs, suits, and damages including attorneys' fees, arising out of the contractor's operation, performance, or negligence under this contract.

All safety orders, rules, and recommendations of the Division of Industrial Safety of the Department of Industrial Relations of the State of California applicable to the work to be done under this contract shall be obeyed and enforced by the contractor. The contractor shall comply with all applicable Federal, State, and local laws, ordinances, codes, and regulations.

Signature

Title

Date



CERTIFICATE OF COMMERCIAL GENERAL AND AUTO LIABILITY INSURANCE

THIS IS TO CERTIFY TO:

East Bay Municipal Utility District (EBMUD)

Department: _____

Street Address: 375 Eleventh StreetMailing Address: PO Box 24055, MS 102City, State, Zip: Oakland, CA 94623-1055**THE FOLLOWING DESCRIBED POLICY HAS BEEN ISSUED TO:**

District Contract Number: _____

Insured: _____

Address: _____

LOCATION AND DESCRIPTION OF PROJECT/AGREEMENT:PUR 100 - FM&O Backhoe and Earthmoving Services**TYPE OF INSURANCE: Commercial General and Automobile Liability Coverage/Endorsements as required by agreement.****LIMITS OF LIABILITY:****(MINIMUM)**

\$2,000,000/Occurrence, Bodily Injury, Property Damage-General Liability

\$2,000,000/Occurrence, Bodily Injury, Property Damage-Auto Liability

SELF INSURED RETENTION (\$): (Auto) _____ (GL) _____ (if applicable)

Aggregate Limits (AUTO) _____ (GL) _____ (if applicable)

INSURANCE COMPANY(IES): (Auto) _____ (GL) _____**POLICY NUMBER(S):** (Auto) _____ (GL) _____**POLICY TERM:** From: (Auto) _____ (GL) _____ To: (Auto) _____ (GL) _____**THE FOLLOWING COVERAGES OR ENDORSEMENTS ARE INCLUDED IN THE POLICY(IES):**

1. The District, its Directors, Officers and Employees are *Additional Insureds* in the policy(ies) as to work being performed under this agreement. ENDORSEMENT NO. _____
2. The coverage is *Primary and non-contributory* to any other applicable insurance carried by the District.
3. The policy(ies) covers *contractual liability*.
4. The policy(ies) is written on an *occurrence* basis.
5. The policy(ies) covers District's Property in Consultant's care, custody and control.
6. The policy(ies) covers *personal injury* (libel, slander, and wrongful entry and eviction) liability.
7. The policy(ies) covers *explosion, collapse, and underground* hazards.
8. The policy(ies) covers *products and completed operations*.
9. The policy(ies) covers the use of *owned, non-owned* and hired automobiles.
10. The policy(ies) and/or a separate pollution liability policy(ies) shall cover pollution liability for claims related to the release or the threatened release of pollutants into the environment arising out of or resulting from Consultant's performance under this agreement.
11. The policy(ies) will not be canceled nor the above coverages/endorsements reduced without 30 days written notice to East Bay Municipal Utility District at the address above.

IT IS HEREBY CERTIFIED that the above policies provide liability insurance as required by the agreement between the East Bay Municipal Utility District and the insured.Signed _____
Address _____
_____Firm _____
Date _____
Phone _____



CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

THIS IS TO CERTIFY TO:

East Bay Municipal Utility District (EBMUD)
Department:
Street Address: 375 11th Street, MS 102
Mailing Address: P.O. Box 24055
City, State, Zip: Oakland, CA 94623-1055

THE FOLLOWING DESCRIBED POLICY HAS BEEN ISSUED TO:

District Purchase Order
Number:

(Completed by EBMUD)

Insured:

Address:

LOCATION AND DESCRIPTION OF PROJECT/AGREEMENT:

PUR 100 - FM&O Backhoe and Earthmoving Services

TYPE OF INSURANCE: Workers' Compensation Insurance as required by California State Law.

The Workers' Compensation Carrier agrees to waive rights of recovery against District regardless of the applicability of any insurance proceeds, and to require all indemnifying parties to do likewise. All Workers' Compensation coverage maintained or procured by permit Holder shall be endorsed to delete the subrogation condition as to District, or must specifically allow the named insured to waive subrogation prior to a loss.

INSURANCE COMPANY:

POLICY NUMBER:

POLICY TERM:

From:

To:

The policy will not be canceled nor the above coverage reduced without 30 days written notice to East Bay Municipal Utility District at the address above.

IT IS HEREBY CERTIFIED the above policy provides insurance as required by the agreement between East Bay Municipal Utility District at the Insured.

Signed:

Date:

Firm:

E-mail

Address:

Phone:

"This certificate or verification of insurance is not an insurance policy and does not amend, extend, or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term or conditions of any contract or other document with respect to which this certificate or verification or insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions, and conditions of the policies."



CERTIFICATE OF POLLUTION LIABILITY INSURANCE

THIS IS TO CERTIFY TO: East Bay Municipal Utility District (EBMUD)
 Department: _____
 Street Address: 375 11th St.
 Mailing Address: PO Box 24055
 City, State, Zip: Oakland, CA 94607

THE FOLLOWING DESCRIBED POLICY HAS BEEN ISSUED TO:

District Contract Number: _____
 Insured: _____
 Address: _____

LOCATION AND DESCRIPTION OF PROJECT/AGREEMENT:

PUR 100 – FM&O Backhoe and Earthmoving Services

TYPE OF INSURANCE: Pollution Liability (Claims Made Basis)

MINIMUM LIMITS OF LIABILITY: \$2,000,000 each claim - \$5,000,000 aggregate

INSURANCE COMPANY: _____

POLICY NUMBER: _____

POLICY TERM: From: _____ To: _____

POLICY TAIL: From: _____ To: _____

The policy will not be canceled nor the above coverage reduced without 30 days written notice to East Bay Municipal Utility District at the address above.

IT IS HEREBY CERTIFIED the above policy provides insurance as required by the agreement between East Bay Municipal Utility District and the Insured.

Signed: _____
Authorized Signature of Broker, Agent, or Underwriter

Date: _____ Firm: _____

Address: _____

Phone: _____

"This certificate or verification of insurance is not an insurance policy and does not amend, extend, or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate or verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions, and conditions of the policies."