

August 16, 2018

Board of Directors
Ventura Regional Sanitation District
Ventura, California

APPROVAL OF PROPOSED CONTRACT NO. 18-017 WITH QUALITY AG, INC. FOR TEMPORARY STAFFING SERVICES

RECOMMENDATION

Approve, and authorize the Board Chair to sign, proposed Contract No. 18-017 with Quality Ag, Inc. for temporary staffing services in an amount not to exceed \$59,400.

FISCAL IMPACT

The funding for this contract is included in the adopted FY2018-19 District budget under account code 25-401-52082-400300.

BACKGROUND/ANALYSIS

Due to attention that was needed while Toland Road Landfill was receiving significantly increased tonnages from the Thomas Fire recovery efforts, key projects for the Summer and Fall seasons are behind schedule. The landfill is also currently short-staffed due to an injury and a recent retirement. As a result, staff reached out to local contractors that have provided temporary operators for special projects at the landfill in the past.

Quality Ag, Inc. provided the lowest bid of three contractors to provide experienced operators over a 6-week period to help staff excavate and haul significant quantities of soil in order to prepare the site for the upcoming fill sequence at the site. This is a crucial step and one that cannot be completed under existing staffing conditions while operations staff gets back on track after the significant Thomas Fire recovery effort. In addition to being the lowest bidder on this project, Quality Ag, Inc. has successfully completed several other projects for the District over the last three years.

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

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



MATT BAUMGARDNER, DIRECTOR OF OPERATIONS

APPROVED FOR FUNDS AVAILABLE



Regina Williams, Interim Director of Finance

APPROVED FOR AUGUST 16, 2018 AGENDA:



Chris Theisen, General Manager

Attachments: 1. Proposed Contract No. 18-017

**VENTURA REGIONAL SANITATION DISTRICT
CONTRACT NO. 18-017**

RECEIVED
2018 AUG -6 PM 12:00

**AGREEMENT FOR
TEMPORARY STAFFING SERVICES
BETWEEN
VENTURA REGIONAL SANITATION DISTRICT
AND
QUALITY AG, INC.**

VENTURA REGIONAL
SANITATION DISTRICT

THIS AGREEMENT is made and entered into this _____ day of _____ 2018, by and between the VENTURA REGIONAL SANITATION DISTRICT, a public agency formed pursuant to California Health & Safety Code Section 4700 et seq. ("DISTRICT") and QUALITY AG, INC., a California Corporation ("CONTRACTOR"). Together, DISTRICT and CONTRACTOR shall be referred to herein as Parties.

RECITALS

A. DISTRICT has a need for a CONTRACTOR who has specialized skill and experience in and can provide temporary staffing services to the DISTRICT.

B. CONTRACTOR represents that it has the requisite skills and experience to provide such specialized temporary staffing services to the DISTRICT.

C. DISTRICT has selected CONTRACTOR, based upon the above representations and in conformance with the negotiated procurement provisions of Section 403 of the DISTRICT Purchasing Resolution No. 89-13, to provide temporary staffing services.

D. Parties agree to enter into this Agreement based upon the valuable and mutual consideration set forth below and the recitals above and to abide by its terms and conditions as set forth herein.

AGREEMENT

ARTICLE 1: WORK STATEMENT/SCOPE OF SERVICES

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

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

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

D. DISTRICT will not, without prior written consent of CONTRACTOR, utilize CONTRACTOR employees to operate machinery, equipment, or vehicles. DISTRICT agrees to indemnify CONTRACTOR and its employees harmless from any and all claims and expenses (including litigation) for bodily injury or property damage or other loss as asserted by DISTRICT, its employees, agents, the owner of any such vehicles and/or equipment or contents thereof, or by members of the general public, or any other 3rd party,

arising out of the operation or use of said vehicles and/or equipment by employees of CONTRACTOR.

ARTICLE 2: TERM OF CONTRACT

Unless otherwise earlier terminated, this Agreement shall continue in force until the services specified herein have been fully performed. Upon execution of this Agreement by both Parties, CONTRACTOR shall diligently pursue work to assure completion on a timely basis. Unless otherwise extended in writing by both Parties, this contract shall automatically terminate on October 15, 2018.

ARTICLE 3: INDEPENDENT CONTRACTOR RELATIONSHIP

A. It is expressly understood between the Parties that no employee/employer relationship is intended, the relationship of CONTRACTOR to DISTRICT being that of an independent CONTRACTOR. DISTRICT shall not be required to make any payroll deductions or provide Workers' Compensation Insurance coverage or health benefits to CONTRACTOR.

B. CONTRACTOR is solely responsible for selecting the means, methods and procedures for performing its services hereunder as assigned by DISTRICT and for coordinating all portions of the work so the result will be satisfactory to the DISTRICT. CONTRACTOR will supply all tools and instrumentalities required to perform its services under this Agreement.

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

ARTICLE 4: CONFIDENTIAL RELATIONSHIP AND OWNERSHIP OF DOCUMENTS

A. CONTRACTOR agrees that all dealings of the Parties under this Agreement shall be confidential and no report, data, information or communication developed, prepared or assembled by CONTRACTOR under this Agreement, or any information made available to CONTRACTOR by DISTRICT, shall be revealed, disseminated or made available by CONTRACTOR to any person or entity other than DISTRICT without the prior written consent of DISTRICT. All data, calculations, drawings and other documents developed, prepared, completed or acquired by CONTRACTOR during the performance of its services hereunder shall be given or turned over to DISTRICT upon termination of this Agreement.

B. CONTRACTOR shall provide copies of original source electronic files (i.e., Microsoft Word or Excel files, digital photos, etc.) of all work completed as part of this Contract. Such files shall not be protected, encrypted or otherwise have their access restricted.

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

ARTICLE 5: PAYMENT TO CONTRACTOR

A. In consideration of CONTRACTOR's performance of services as described herein, DISTRICT shall pay CONTRACTOR fees for its services according to the schedule of rates set forth in Exhibit "A" attached and incorporated by reference herein. On or prior to the tenth (10th) day of each calendar month after actual work is started, CONTRACTOR shall submit an invoice in sufficient detail to show the total amount of work done to the last day of the month preceding the one in which the invoice is submitted. DISTRICT shall review and approve CONTRACTOR's invoice for accuracy and agree with CONTRACTOR on any adjustments that may be appropriate. Such approvals shall not be unreasonably withheld. DISTRICT shall pay CONTRACTOR for all approved work and materials within thirty (30) days

of agreement on the amount of the invoice. In the event of disagreement with CONTRACTOR on adjustments or disallowances, said amounts and disputes shall be withheld until resolved. Upon resolution of the disagreements, payment of the approved amount shall be made within thirty (30) days after deducting therefrom all previous payments and all sums to be retained under the terms of the Agreement.

B. Total fees to be paid by DISTRICT to CONTRACTOR for CONTRACTOR's services described herein shall not exceed \$59,400 without written amendment hereto.

ARTICLE 6: TERMINATION OF CONTRACT

All work shall be done in a diligent and professional manner to DISTRICT's satisfaction. CONTRACTOR specifically acknowledges and agrees that DISTRICT may terminate CONTRACTOR's services at any time with or without cause, regardless of whether CONTRACTOR's services or the Project are completed. Any termination or any special instructions hereunder from DISTRICT shall be made in writing. In the event of such termination, CONTRACTOR shall have the right to expend additional time (not to exceed 10% of the total fees payable under this Agreement) to assemble the work in progress for the purpose of proper filing and closing the job. Such additional time shall not increase CONTRACTOR's total compensation beyond the maximum stated in Article 5.

ARTICLE 7: INDEMNIFICATION AND HOLD HARMLESS

CONTRACTOR agrees to defend, indemnify and hold harmless DISTRICT and its officers, agents and employees, from and against any and all liability, damages, costs, losses, claims and expenses, however caused, resulting directly or indirectly from or connected with CONTRACTOR's negligent performance of this Agreement (including, but not limited to such liability, cost, damage, loss, claim or expense arising from the death of or injury to, or damage to property of CONTRACTOR, DISTRICT, or their respective employees or agents), except to the extent that such liability, damages, costs, losses, claims or expenses are caused by the negligent or wrongful acts or omissions of DISTRICT or any of its agents or employees.

DISTRICT agrees to indemnify and hold harmless CONTRACTOR for claims, damages or penalties arising out of violations of the Occupational Safety and Health Act (OSHA) of 1970, or any state law with respect to workplaces or equipment owned, leased, or supervised by Customer and to which employees are assigned.

ARTICLE 8: INSURANCE

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

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

CONTRACTOR shall provide certificates of such insurance to DISTRICT prior to the start of work. Said certificates shall specifically provide that: (1) DISTRICT is an additional insured for the coverage in Items B and C above; (2) any other insurance coverage applicable to the loss shall be deemed excess coverage and CONTRACTOR's insurance shall be primary for the coverage in Items B and C above; and (3) such insurance shall not be terminated or canceled without thirty (30) days' prior written notice having been given DISTRICT at its address set forth in this Agreement.

ARTICLE 9: SUBCONTRACTORS

This Agreement is a personal service contract and the consulting work hereunder shall not be delegated or assigned by CONTRACTOR to any person or entity without the prior written consent of DISTRICT. Breach of this provision shall be grounds for immediate termination of this Agreement.

ARTICLE 10: AUTHORITY TO EXECUTE AGREEMENT

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

ARTICLE 11: NO WAIVER

No failure or delay by DISTRICT in asserting any of DISTRICT's rights and remedies as to any default of CONTRACTOR shall operate as a waiver of the default, of any subsequent or other default by CONTRACTOR, or of any of DISTRICT's rights or remedies. No such delay shall deprive DISTRICT of its right to institute and maintain any action or proceeding which may be necessary to protect, assert or enforce any rights or remedies arising out of this Agreement or the performance of this Agreement.

ARTICLE 12: PARTIAL INVALIDITY

If any term, covenant, condition, or provision of this Agreement is found by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated thereby.

ARTICLE 13: TERMS

No alteration or amendment of the terms of this Agreement shall be valid unless made in writing and signed by the Parties. No oral understanding or agreement not incorporated herein shall be binding on any of the Parties.

ARTICLE 14: CALIFORNIA LAW

This Agreement shall be interpreted and construed pursuant to the laws of the State of California. This Agreement shall be governed by the Uniform Commercial Code of the State of California, as amended. The Parties agree that should litigation arising from this Agreement be commenced within California, such litigation shall occur within a court of competent jurisdiction within the County of Ventura.

ARTICLE 15: COMPLIANCE WITH LAWS

CONTRACTOR shall be solely responsible for giving all notices and complying with all applicable laws, ordinances, rules, regulations, and lawful orders of any public authority relating to CONTRACTOR's work, the safety of the persons or property involved, and their protection from damage or injury. CONTRACTOR shall defend, indemnify, and hold DISTRICT harmless from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description, including reasonable attorneys' fees and costs, brought or recovered against DISTRICT, for or on account of any liability under said laws, ordinances, rules, regulations, and orders which may be incurred by reason of any work to be performed by CONTRACTOR with this Agreement.

ARTICLE 16: FORCE MAJEURE

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

ARTICLE 17: DISPUTE RESOLUTION

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

ARTICLE 18: MODIFICATION

This Agreement, in whole or in part, may not be amended, modified, or altered in any way unless it is first put in writing and then mutually agreed to by authorized representatives of the Parties.

ARTICLE 19: NOTICES

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

To CONTRACTOR: HEATHER RICHARDSON
Quality Ag, Inc.
PO Box 989
Fillmore, CA 93016

To DISTRICT: Finance & Administration
VENTURA REGIONAL SANITATION DISTRICT
1001 Partridge Drive, Suite 150
Ventura, CA 93003-0704

or to such other address as either Party may designate hereinafter in writing delivered to the other Party. All notices shall be deemed to have been received three (3) days after mailing.

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IN WITNESS WHEREOF, the Parties hereto have executed this agreement the day and year first above written.

VENTURA REGIONAL
SANITATION DISTRICT

By _____
JAMES MONAHAN
Chairman of the Board

QUALIY AG, INC.

By  _____
HEATHER RICHARDSON
Owner

ATTEST

By _____
JULIET RODRIGUEZ
Clerk of the Board

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

By _____
ROBERT N. KWONG
Legal Counsel for District

APPROVED AS TO ADMINISTRATION

By _____
CHRIS THEISEN
General Manager

EXHIBIT A

STATEMENT OF WORK & RATE SHEET

The following summarizes the work statement/scope of work to be performed by CONTRACTOR and the rates to be charged in connection with CONTRACTOR'S delivery of temporary staffing services under the Agreement.

A. Under the general direction of the DISTRICT's Solid Waste Superintendent/Supervisor, CONTRACTOR shall supply temporary staff to perform the following tasks at the Toland Road Landfill located at 3500 Toland Road, Santa Paula, CA:

1. Provide three (3) heavy equipment operators to operate VRSD supplied heavy equipment as directed.

B CONTRACTOR shall bill the DISTRICT for work performed under the Agreement according to the following terms and rates:

<u>Position</u>	<u>Hourly Rate</u>
Heavy Equipment Operator	\$75.00

The *hourly billing rate* (listed in Section B above) to be paid by DISTRICT includes all wages, worker's compensation premiums, unemployment insurance, payroll taxes, and all other employer burdens; recruiting, administration, payroll funding, and liability insurance (with no hidden costs).

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