

EAST BAY MUNICIPAL UTILITY DISTRICT

REQUEST FOR QUOTATION (RFQ) No. 1602 for THICKENING POLYMERIC FLOCCULANTS

For complete information regarding this project, see RFQ posted at <http://www.ebmud.com/business-opportunities> or contact the EBMUD representative listed below. Thank you for your interest!

Contact Person: John W. Grimes
Phone Number: (510) 287-0316
E-mail Address: jgrimes@ebmud.com

Please note that prospective bidders are responsible for reviewing <http://ebmud.com/business>, during the RFQ process, for any published addenda regarding this RFQ.

RESPONSE DUE
by
1:30 p.m.
on
October 28, 2015
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

RFQ No. 1602

for

Thickening Polymeric Flocculants

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I. STATEMENT OF WORK

A. SCOPE

It is the intent of these specifications, terms, and conditions to describe a requirement furnish and deliver District requirements of polymeric flocculants for waste thickening on an as-needed basis to the District's Wastewater Treatment Plant located at 2020 Wake Avenue, Oakland, California, as shown on the Bidding Sheet and in accordance with the specifications contained herein.

East Bay Municipal Utility District (District) intends to award a two (2) -year contract with three (3) options, exercised at the sole discretion of the District, to extend the contract for additional one (1)-year periods to the lowest cost bidder(s) whose response meets the District's requirements.

B. BIDDER QUALIFICATIONS

1. Qualified bidders must have a minimum of 5 years' experience regularly engaged in the business of manufacturing, supplying, and applying polymeric flocculants for sludge thickening for municipal wastewater treatment facilities.
2. **BIDDERS SHALL SUBMIT THE FOLLOWING PROOF OF THEIR QUALIFICATIONS ON THE QUESTIONNAIRE FOLLOWING THE BIDDING SHEET. Failure to do so may render the bid nonresponsive:**
 - a. Location of the polymer manufacturing facility and statement attesting to capacities to manufacture, furnish and deliver the product specified.
 - b. List of major chemical constituents used in production process and statement attesting to your ability to procure these process components.
 - c. Statement that manufacturer/vendor has and will maintain competent field service personnel available on a 24 hour/day 7 day/week basis for the entire contract period
 - d. The names and phone numbers of at least 3 references who can report about the successful use of polymers under similar quantities, applications and conditions within the last five years.

C. SPECIFIC REQUIREMENTS

1.1 SUBMITTALS

- A. A Material Safety Data Sheet **must be submitted to Robert Ciernik, Wastewater Shift Supervisor PRIOR TO ANY FIELD TESTING** (see Section 2).

District reserves the right to disqualify any product, that in the opinion of the District, poses a safety hazard, health hazard, or odor problem to treatment plant personnel.

- B. Product specifications and quality control procedures shall be submitted by bidders prior to the final trial test or the bidder may be rendered nonresponsive:
1. Product specifications at a minimum shall include the following data:
 - Polymer manufacturer/supplier
 - Polymer type
 - Polymer trade name
 - Percent of total solids
 - Minimum percent of active solids
 - Maximum percent of inert solids
 - Molecular weight
 - Bulk density range
 - Viscosity range
 2. Quality control analytical procedures describing the methods and procedures for determining and verifying the following: percent total solids, percent active solids, molecular weight, bulk density, charge density, viscosity. QA/QC analytical procedures are to be within the capability of the District's laboratory.
 3. **The bidder's Specification Sheet provided as Attachment 1 in Appendix D of this RFQ document shall be submitted as part of the Proposal.** The submitted specifications will become part of the subsequent contract for the successful product.
- C. A \$1000.00 deposit will be required from each bidder **prior to any field testing.** The deposit shall be a cashier's check **payable to East Bay Municipal Utility District.** This deposit will be refunded within fourteen days of the container being removed from the plant site by the Bidder. If the Bidder has not removed the container(s) within fourteen days following completion of his/her firm's testing, this deposit will be used by the District to remove the container(s).
- D. Upon request of the District, and within five (5) days of such request, a list and sketch of the proposed equipment to be supplied during the length of the contract to store, mix, and distribute the polymer, as required.

1.2 MANUFACTURER'S FIELD TESTING

A. Trial Testing

Bid Trials will consist of three phases:

Bench-scale Tests: Bidders will be allowed to perform bench-scale tests prior to the pre-trial.

Pre-trial Tests: Each bidder will be allowed up to three (3) products during two days of pre-trial testing to determine the proper polymer type and bid dose for District waste-activated sludge using District equipment.

Final Trial Test: One (1) product will be tested for each bidder during the one (1) day final trial on the District's gravity belt thickener.

NOTE: Bidders must participate in Pretrial and Final Trial field testing to qualify to submit a bid.

The bidder's polymer field tests will be scheduled Tuesdays through Thursdays on final trial test weeks. Scheduling will be on a first-come first-served basis. Testing must take place between the hours of 7:00 a.m. and 3:00p.m. **Contact Robert Ciernik at (510) 287-1522 or Kathy Fagan at (510) 287-1409 as soon as possible to reserve times and dates for pre-trial and final trial testing.**

PROPOSED POLYMER TRIAL SCHEDULE

The following is an estimated time-frame for testing, trials and evaluation. The District will establish appointments for testing based on the number of participants and equipment availability.

Bench Testing: August 24 – September 4, 2015

Pre-Trial Testing: . . . September 7 – September 25, 2015

Final testing: October 6 – October 15, 2015

Bid Opening: October 28, 2015

B. Trial Products

The bidder will be required to furnish, free of charge, enough polymer in totes for the full-scale final trial test on one (1) gravity belt thickener, at least two (2) full days before the Trial date. Only liquid emulsion polymers will be accepted for this bid trial. Any delays or revisions to the Trial schedule due to late polymer deliveries will be at the discretion of the District and are not guaranteed. Existing District polymer storage tanks will not be utilized for test purposes. Bidders will also be responsible for removal of all unused materials

and containers within fourteen (14) calendar days after the field test. Failure to do so will result in the loss of the deposit required in Section 1.1.C.

C. Shipments of Trial Products

Shipments of trial products will be accepted Monday through Friday 7:00 a.m. to 4:00 p.m. at the address below. Prior notification of shipment shall be given to *Robert Ciernik* at (510) 287-1522 or *Kathy Fagan* at (510) 287-1409.

**East Bay Municipal Utility District
Attn: Robert Ciernik
2020 Wake Ave.
Oakland, CA 94607**

1.3 PERFORMANCE

A. Conditions

Polymer will be diluted with treated plant effluent into stock solution and dosed in the sludge before feeding the sludge in the gravity belt thickener for dewatering applications on a continuous or intermittent basis. Sludge characteristics are as follows:

	Waste-Activated Sludge
Average Feed Solids Concentrations, % Total Solids, TS	0.4 – 1.1
Approximate Dry Ton (DT) of Solids Treated Annually	18,000
Gravity Belt Thickener	Ashbrook 3-meter Aqua Belt

The bidders will bid based on their unit cost and qualifying bid dose, determined through final trial testing, which provides the lowest net cost to the District.

Polymer Bid Dosage Cost	=	Bid Dose	X	Polymer Bid Unit Cost	=	\$/dry ton
		(active-pounds of polymer/dry ton of feed sludge)		(\$/active-pound of polymer)		

B. Performance Criteria

Effectiveness of the polymeric flocculant at meeting the minimum performance standards as specified shall be demonstrated and determined by

final trial tests on District equipment. Required performance standards are as follows:

Gravity Belt	Thickening
Cake (% TS) Minimum	5.2 %
Recovery (%) Minimum	95 %
Feed Rate (gpm)	800 (± 20 gpm)

Solids recovery will be calculated using the following equation:

$$\text{Percent recovery} = \frac{s(f-e)}{f(s-e)} \times 100$$

where: s = cake concentration, % total solids (TS)

f = feed concentration, % total solids (TS)

e = filtrate concentration, % total suspended solids (TSS)

C. Product Disqualification

The District reserves the right to disqualify any polymer prior to trials, or anytime thereafter, if it is determined that the product poses a safety or health hazard to plant personnel.

If pre-trial testing of a polymer results in unacceptable quality of the cake or filtrate or poses an odor problem as solely determined by the District, that polymer will be disqualified from final trial testing. District personnel will determine the existence of unacceptable performance characteristics.

If a product is disqualified in pre-trials, a different product may be substituted in its place for final trials. The bidder will inform the District of the intent of trialing the alternative within 5 days after the pre-trial testing.

1.4 PRE-TRIAL TEST

A. Test Format:

1. Purpose of the pre-trial is for bidders to determine the appropriate chemical polymer, polymer batching concentration, machine settings and optimum polymer bid dosing rate for District Equipment in the final trials.
2. Each bidder will be given 2 working days for pre-trial testing and will be allowed to test up to 3 products.
3. Testing will be conducted on one of the District Ashbrook 3-meter Aqua Belt gravity belt thickeners.
4. Bidders will be responsible for sample collection and sample analysis during pre-trials. District solids analysis equipment will be made available to bidders for use on test days.
5. One (1) District Operations staff person will be available to assist with machine operation and mechanical adjustments as needed. District personnel will not assist in unofficial sample collection or analysis during pre-trials.
6. One sample set consisting of: feed sludge, cake, filtrate and polymer will be collected and analyzed by the District laboratory for each polymer tested during pre-trials.
7. District personnel will determine the existence of unacceptable performance characteristics and disqualify a polymer if it poses a hazard to District personnel or plant operations.

1.5 FINAL TRIAL TEST

A. Final Test Format

1. Prior to final bid submission and award of contract, final trial tests will be conducted on the bidder's polymer using District equipment to demonstrate that proposed polymer tested in pre-trials would meet the required performance standards at the bid dosage rate.
2. At least one day prior to the final trial test date bidders will be required to indicate their starting polymer dose rate (active-pounds per dry tons solids) and machine settings preferences to be used on the day of final trial testing (belt speed and polymer concentration).
3. Product will be tested on one of the District's gravity belt thickeners.

4. Each bidder will have a maximum of eight (8) hours operating time to test the proposed polymer for the thickening operation.
5. Each bidder is allowed to test one (1) product in the final trial. Each polymer will be evaluated based on solids recovery performance and bid price.
6. The District will provide the daily composite waste activated sludge Total Solids (TS) results for the most recent fourteen (14) day period to assist the vendor in establishing the feed solids concentration prior to testing. If the final trial laboratory results for feed solids (TS) fall outside the normal range identified in Section 1.3.A, the final trial test will be retried.
7. District personnel will perform all final trial tests, including machine operation settings, sampling, analyses, data recording, and calculations. Information obtained from the final trial tests will be used as a basis for determining the responsiveness of the bid.
8. Final bid determination will be evaluated by the District for each bidder's total bid price based on the results of the individual final trial test.
9. A bid which proposes a product not meeting the required criteria will be considered non-responsive and will be rejected. The next apparent low bidder will be chosen from the results of the final trial testing as described in this specification.
10. In case of conflict, interpretations and calculations made by the District will govern.
11. The bidder will be required to furnish, free of charge, enough polymer in totes for the full-scale final trial testing test on one (1) gravity belt thickener, at least two (2) full days before the Trial date. Any delays or revisions to the Trial schedule due to late polymer deliveries will be at the discretion of the District and are not guaranteed. Existing District polymer storage tanks will not be utilized for test purposes. Bidders will be responsible for removal of all unused materials and containers within fourteen (14) calendar days after the final trial test. Failure to do so will result in the loss of the deposit required in Section 1.1.C.
12. Bidders will be limited to a maximum of two (2) representatives present during final trials.

B. Test Procedure

1. The final trial tests will be conducted on one (1) gravity belt thickener to be chosen by the District.
2. The District will clean and prepare the designated gravity belt thickener and calibrate all instrumentation where practicable prior to testing.
3. The final trial tests will be conducted in two (2) phases.
4. The first 2-hour phase will be used to establish and stabilize polymer and sludge feed rates. The bidder shall be available to assist in all aspects of handling and feeding the polymer, setting and maintaining the sludge feed rate and conducting any informal sample analysis during this period.
5. The second phase will consist of a 6-hour final trial test. This second phase will begin when the District is satisfied that machine and sludge conditions are within normal ranges and the polymer feed rate is established or at a maximum of 2 hours from the beginning of the first phase.
6. The gravity belt thickener will be run at the specified feed rate of 800 gpm as indicated at the DCS control panel throughout the 6-hour final test phase. No adjustments will be made during the 6-hour final test phase.
7. The initial 4-hour test period of the 6-hour final test phase will be run at the bid dose rate. The final 2-hour test period will be run at 110% of the bid dose rate for the first hour, and at 90% of the bid dose rate for the second hour. The 10% adjustments for the final 2-hour test period will be applied to the arithmetically averaged polymer solution feed rate of the initial 4-hour test period.
8. Only District staff will adjust the polymer dose during the 6-hour final test phase. The bidder will indicate the desired starting polymer dose rate, polymer concentration, and belt settings as determined from the pre-trial testing of that specific product and will not be altered during the test.
9. Flow data will be collected on sludge feed and polymer dose every 30 minutes. Sludge Feed, Filtrate, and Cake samples will be collected every 30 minutes for each dose rate. Polymer samples will be collected at least once per polymer tote trialed.

C. Sampling, Analysis, and Data Collection

1. The District will collect and analyze all samples. Vendors will have no access to official trial samples; split samples will be provided to the vendor if requested in advance.
2. Feed sludge, filtrate, and cake samples will be collected every 30 minutes. A total of 12 samples for each sludge, cake and filtrate will be collected during the 6-hour final test phase. The samples for feed sludge and cake will be analyzed for total solids (TS) and the filtrate for total suspended solids (TSS) by the District laboratory.
3. Instantaneous readings of sludge feed rate and polymer solution feed rates will be recorded each half-hour. In addition, totalizer readings will be taken at the beginning and end of the 6-hour final test phase for sludge feed. Total neat polymer feed will also be measured.
4. A 250mL sample of neat polymer will be collected and analyzed by the District laboratory for each tote used in the final trial test.

D. Data Evaluation

1. The District will calculate actual percent recovery for each half-hour interval of the 6-hour final test phase.
2. The District will calculate the actual average neat polymer feed rate, in active pounds of delivered liquid polymer per dry ton of sludge based on the District laboratory analytical percent TS results, totalized sludge flow and the pounds of liquid polymer used during the test period.
3. The product will qualify for bid if all of the following are met (all results shall be based on District laboratory data):
 - a. The arithmetic average total solids recovery for all samples meets or exceeds the standard specified in paragraph 1.3.B.;
 - b. The arithmetic average cake solids for all samples meets or exceeds the standard specified in paragraph 1.3.B.; and
4. The final trial test shall be considered valid if the average sludge feed

concentration during the post-bid verification test for thickening is between 0.4 – 1.1% TS. Sludge concentration averages outside this range may result in a final trial retest.

D. EQUIPMENT

Polymeric flocculants in liquid state shall be delivered f.o.b. to the District's existing tanks located at the Wastewater Treatment Plant. The District currently has two 6,000 gallon tanks to support waste-activated sludge thickening. If necessary, additional tanks and associated piping shall be furnished and installed by the Contractor at no cost to the District. In that case, the Contractor will submit a list and sketch of the proposed equipment as outlined in Section 1.1.D. of this RFQ.

E. QUANTITY

Approximately 18,000 tons per year of waste-activated sludge (dry solids) will be processed through the thickening processes during the life of this contract. The quantity of thickened, waste-activated sludge specified on the Bidding Sheet is to be used for bid comparison only. The actual amount to be thickened during the life of this contract could increase or decrease in any amount.

It is estimated that the total amount of sludge to be thickened will be between 7 to 36 tons of feed solids (dry solids) per 8 hour shift with the average being approximately 18 tons feed solids (dry). The District plans to run 24 hours per day with the possibility of a maximum feed of 108 tons per day.

F. DELIVERY

Polymeric flocculant shall be furnished f.o.b. delivered to the District's Wastewater Treatment Plant, 2020 Wake Ave, Oakland, California as required. It is the Contractor's responsibility to maintain production and delivery facilities necessary to supply polymer to meet the District's needs considering the bid dose rate, on-site storage capacity, and production/transit time. In the event the Contractor fails to make deliveries on schedule, the District reserves the right to purchase material on the open market and charge the Contractor for any costs incurred above the contract price.

The bidder to whom a contract is awarded will be required to furnish and update, as necessary, a list of telephone numbers and names of the responsible parties to be called on a 24 hour, 7 days per week basis in the event of an emergency or unusual operational condition.

G. FAILURE TO MEET SPECIFICATIONS

In the event any shipment or shipments of a Contractor's product do not meet the specification or delivery requirements, the District may reject the shipment or shipments and, at its option, may purchase this material from any supplier on the open market who can meet the District's specification requirements or the District may demand immediate replacement by Contractor of the non-conforming product. Any costs over and above the original contract price will be charged back to the Contractor. In addition, Contractor shall bear the costs of removal and disposition for any delivery which fails to conform to the specifications.

H. PILOT PROGRAM TESTING

The District reserves the right to utilize the existing facilities for purposes of experimentation and testing of polymeric flocculants at times and under circumstances to be decided upon by the District. Experimentation and testing may be conducted using polymeric flocculants provided by the Contractor hereunder, and by other manufacturers, and will be purchased by purchase orders.

The District may be conducting pilot testing programs with various thickening equipment during the term of this contract. The District reserves the right to use polymeric flocculants provided by Contractor hereunder, or other polymers furnished by Contractor or other manufacturers, during the pilot programs.

I. QUALITY CONTROL

The District will analyze samples from material shipped for quality consistency. In the event that any significant deviation in polymer performance or established feed rates occur, or if the analyses indicate a significant quality inconsistency, the District may require lab certification on further shipments and replacement of defective material. Continued quality deviations will be considered grounds for cancellation of the contract.

The Contractor shall provide training to District laboratory personnel on quality assurance laboratory procedures if the District so requests at no additional cost. The District reserves the right to use other procedures than those submitted by the Contractor in order to further assure specifications are met.

II. CALENDAR OF EVENTS

EVENT	DATE/LOCATION	
RFQ Issued	August 19, 2015	
Deadline to Register to Participate in Bid-Process/Schedule Pre-trial Testing	September 1, 2015	Contact Robert Ciernik, Wastewater Shift Supervisor, At (510) 287-1522 Or Kathy Fagan, Administrative Assistant, At (510) 287-1409
Bench Testing:	Aug. 24 – Sept 4, 2015	
Pre-Trial Testing:	Sept. 7 – Sept. 25, 2015	
Final Trial testing:	Oct. 6 – Oct. 15, 2015	
Bid Response Due	October 28, 2015, by 1:30 p.m.	
Anticipated Contract Start Date	December 4, 2015	

Note: All dates are subject to change.

Bidders are responsible for reviewing <http://ebmud.com/business> for any published addenda. Hard copies of addenda will not be mailed out.

A. MANDATORY PRE-TRIAL FIELD TESTING AND MANDATORY FINAL TRIAL TESTING

PLEASE REFER TO SECTION C: SPECIFIC REQUIREMENTS, UNDER THE STATEMENT OF WORK, FOR COMPLETE INFORMATION, INSTRUCTIONS AND REQUIREMENTS FOR THE PRE-TRIAL AND FINAL TRIAL TESTING AND SPECIFICATIONS.

Mandatory pre-trial and final trial field testing will be held to:

1. **Allow the Contractor to perform pre-trial field testing of up to three (3) polymer products on existing thickening equipment and waste activated sludge flows to qualify acceptable performance parameters.**
2. **Allow the District to verify the Contractor selected polymer product will achieve specified performance standards for existing equipment and sludge conditions**
3. **Allow the District to verify the Contractor bid price is representative and reflective of polymer performance and real costs to the District.**

*****In order to be eligible to bid on this RFQ, a representative from the bidder's company MUST provide product for pre-trial field testing and final trial field testing. Submissions from non-qualified vendors WILL be rejected.*****

TO PARTICIPATE IN THE PRE-BID PROCESS, PLEASE CONTACT ROBERT CIERNIK, WASTEWATER SHIFT SUPERVISOR, AT (510) 287-1522 OR KATHY FAGAN, ADMINISTRATIVE ASSISTANT, AT (510) 287-1409, BY SEPTEMBER 1, 2015 TO SET UP AN APPOINTMENT FOR TESTING.

III. DISTRICT PROCEDURES, TERMS, AND CONDITIONS

A. RFQ ACCEPTANCE AND AWARD

1. RFQ responses will be evaluated to determine that they are responsive, responsible, and that they meet the specifications as stated in this RFQ.
2. The District reserves the right to award to a single or to multiple Contractors, dependent upon what provides the lowest overall cost to the District.
3. The District has the right to decline to award this contract or any part of it for any reason.
4. Any specifications, terms or conditions, issued by the District, or those included in the bidder's submission, in relation to this RFQ, may be incorporated into any PO or contract that may be awarded as a result of this RFQ.
5. Award of contract. The right is reserved 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 technical defects, 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. BRAND NAMES, APPROVED EQUIVALENTS, DEVIATIONS, AND EXCEPTIONS

Any references to manufacturers, trade names, brand names, and/or catalog numbers are intended to be descriptive, but not restrictive, unless otherwise stated, and are intended to indicate the quality level desired. Bidders may offer an equivalent product that meets or exceeds the specifications.

The District reserves the right to be the sole judge of what shall be considered equal and/or acceptable, and may require the bidder to provide additional information and/or samples. If the bidder does not specify otherwise, it is understood that the brand and/or product referenced in this RFQ will be supplied.

Taking exception to the RFQ, or failure on the part of the bidder to comply with all requirements and conditions of this RFQ, may subject the RFQ response to rejection. If no deviations are shown, the bidder will be required to furnish the material exactly as specified. The burden of proof of compliance with the specifications will be the responsibility of the bidder.

This RFQ is subject to acceptance only on the terms and conditions stated in this RFQ. Any additional or different terms and conditions proposed by the bidder are hereby rejected, and shall be of no force or effect unless expressly assented to in writing by the District.

C. PRICING

1. All prices are to be F.O.B. destination. Any freight/delivery charges are to be included.
2. All prices quoted shall be in United States dollars.
3. Price quotes shall include any and all payment incentives available to the District.
4. Bidders are advised that in the evaluation of cost, if applicable, it will be assumed that the unit price quoted is correct in the case of a discrepancy between the unit price and extended price.

D. PRICE ADJUSTMENTS

Prices shall be firm for the initial one-year term of the contract. Thereafter, prices will be adjusted to reflect changes in raw material costs only based on the percent change in the United States Bureau of Labor Statistics Producer Price Index for Iron and Steel Mills, ID #pcu331111331111 (Preliminary Data). The seller is expected to manage costs associated with labor, overhead, and GS&A for the life of the original agreement and all related option-year extension periods.

On or about the sixteenth calendar day of November, 2016, and every twelve months thereafter ("Calibration Date") for the term of this Agreement and extension periods, the parties will establish new pricing for the thickening polymeric flocculants provided under this RFQ based on the percent change in the United States Bureau of Labor Statistics Producer Price Index for Petrochemical Manufacturing which includes propylene made from refined petroleum or liquid hydrocarbons, ID #pcu325110325110, (Preliminary Data). For purposes of this price adjustment calculation, material costs are assumed to be 60% of price. Sixty percent is the factor that will be utilized to calculate baseline raw material cost relative to the low bid price, regardless of the actual material cost/price ratio for the vendor that submits the lowest responsible bid. Because all other costs and profit remain fixed (Margin) the actual ratio of raw material costs to

price in this calculation may change somewhat over the life of the agreement for the successful bidder. Nonetheless, the calculation described herein will not change for the life of the agreement to include all extension periods. The effective date of all related adjustments will be December 4.

EXAMPLE: Price Adjustment Scenario (for illustration only)

		Change 1		Percent Change	New Price
		Prior Index From Nov. '15	Calibration Index To Nov. '16		
Raw Material:	(60% of Price) \$0.039				
Propylene		\$0.039	173.9	12.54%	\$0.0439
Margin	(40% of Init. Contract Price)	\$0.026			\$0.026
Price		\$0.065			\$0.0699

		Change 2		Percent Change	New Price.
		Prior Index From Nov. '16	Calibration Index To Nov. '17		
Raw Material:	(less fixed margin) \$0.0373				
Propylene		\$0.0439	195.7	7.36%	\$0.0471
Margin	(40% of Init. Contract Price)	\$0.026			\$0.026
Price		\$0.0699			\$0.0731

Note: All price adjustment calculations that fail to support a need to adjust price by at least 1.00% will not be implemented. When this happens, the subsequent price change will be calculated by comparing the current index value to the index value last used to calculate an allowable price change. This will allow for the accumulation of multiple "less than 1%" price.

E. PROTESTS

Protests must be in writing and must be received no later than seven (7) business days after either of the following: posting of the RFQ results on the District's website (www.ebmud.com), or notification of selection/non-selection, whichever is sooner. The District will reject the protest as untimely if it is received after this specified time frame. Protests will be accepted from bidders or potential bidders 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 RFQ 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 protestor. If a firm is representing the protestor, 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 working 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.

F. METHOD OF ORDERING

1. Written POs may be issued upon approval of written itemized quotations received from the Contractor.
2. POs and payments for products and/or services will be issued only in the name of Contractor.
3. Any and all change orders shall be in writing and agreed upon, in advance, by Contractor and the District.

G. TERM / TERMINATION / RENEWAL

1. The term of the contract, which may be awarded pursuant to this RFQ, will be two (2) years beginning December 4, 2015, and ending December 3, 2017, with three (3) options, to be exercised at the sole discretion of the District, to extend the contract for additional one (1)-year periods.
2. This Agreement may be terminated for convenience by the District provided the Contractor is given written notice of not less than 30 calendar days. Upon such termination, the District shall pay the Contractor the amount owing for the products ordered and satisfactorily received by the District. This shall be the sole and exclusive remedy to which the Contractor is properly entitled in the event of termination by the District.
3. This Agreement may be terminated for cause at any time, provided that the District notifies Contractor of impending action.

H. WARRANTY

1. Bidder expressly warrants that all goods and services to be furnished pursuant to any contract awarded it arising from the Bid will conform to the descriptions and specifications contained herein and in supplier catalogs, product brochures and other representations, depictions or models, and will be free from defects, of merchantable quality, good material, and workmanship. Bidder expressly warrants that all goods and services to be furnished pursuant to such award will be fit and sufficient for the purpose(s) intended. This warranty shall survive any inspections, delivery, acceptance, payment, or contract termination for any reason, by the District.

I. INVOICING

1. Payment will be made within thirty (30) days following receipt of a correct invoice and upon complete satisfactory receipt of product and/or performance of services.
2. The District shall notify Contractor of any invoice adjustments required.
3. Invoices shall contain, at a minimum, District PO number, invoice number, remit to address, and itemized products and/or services description.
4. The District will pay Contractor in an amount not to exceed the total amount quoted in the RFQ response.

IV. RFQ 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 RFQ. The following persons are only to be contacted for the purposes specified below.

TECHNICAL SPECIFICATIONS:

Attn: Robert Ciernik, Wastewater Shift Supervisor

EBMUD- Wastewater Treatment Division

E-Mail: rciernik@ebmud.com

PHONE: (510) 287-1522

CONTRACT EQUITY PROGRAM:

Attn: Contract Equity Office

PHONE: (510) 287-0114

AFTER AWARD:

Attn: David Freitas, Wastewater Treatment Superintendent

EBMUD-Wastewater Engineering Division

E-Mail: dfreitas@ebmud.com

PHONE: 510-287-1502

B. SUBMITTAL OF RFQ RESPONSE

1. Late and/or unsealed responses will not be accepted.
2. RFQ responses submitted via electronic transmissions will not be accepted. Electronic transmissions include faxed RFQ responses or those sent by electronic mail ("e-mail").
3. RFQ responses will be received only at the address shown below, must be SEALED, and must be received at the District Purchasing Division by 1:30 p.m. on the due date specified in the Calendar of Events. Any RFQ response received after that time or date, or at a place other than the stated address cannot be considered and will be returned to the bidder unopened.

All RFQ 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 RFQ responses.

4. RFQ responses are to be addressed/delivered as follows:

Mailed:

Andrew Akelman, Manager of Purchasing
East Bay Municipal Utility District
Thickening Polymeric Flocculants
RFQ No. 1602
EBMUD–Purchasing Division
P.O. Box 24055
Oakland, CA 94623

Hand Delivered or delivered by courier or package delivery service:

Andrew Akelman, Manager of Purchasing
East Bay Municipal Utility District
Thickening Polymeric Flocculants
RFQ No. 1602
EBMUD–Purchasing Division
375 Eleventh Street, First Floor
Oakland, CA 94607

Bidder's name, return address, and the RFQ number and title must also appear on the mailing package.

5. Bidders are to submit one (1) original hardcopy RFQ response (Exhibit A – RFQ 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 RFQ response shall be borne by the bidder.
7. California Government Code Section 4552: In submitting an RFQ response to a public purchasing body, the bidder offers and agrees that if the RFQ 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 bidder for sale to the purchasing body pursuant to the RFQ response. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder.
8. Bidder 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 RFQ response shall remain open to acceptance and is irrevocable for a period of one hundred eighty (180) days, unless otherwise specified in the RFQ documents.
10. It is understood that the District reserves the right to reject any or all RFQ responses.

C. RESPONSE FORMAT

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



EXHIBIT A

RFQ RESPONSE PACKET

RFQ No. 1602 – THICKENING POLYMERIC FLOCCULANTS

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

From: _____
(Official Name of Bidder)

RFQ RESPONSE PACKET GUIDELINES

- **AS DESCRIBED IN SECTION IV- RFQ RESPONSE SUBMITTAL INSTRUCTIONS AND INFORMATION, BIDDERS ARE TO SUBMIT ONE (1) ORIGINAL HARDCOPY RFQ RESPONSE WITH ORIGINAL INK SIGNATURES, AND ONE (1) COPY, CONTAINING THE FOLLOWING, IN THEIR ENTIRETY:**
 - **EXHIBIT A – RFQ RESPONSE PACKET, INCLUDING CONTRACT EQUITY PROGRAM FORMS AND ALL ADDITIONAL REQUIRED DOCUMENTATION AS DESCRIBED IN EXHIBIT A - “REQUIRED DOCUMENTATION AND SUBMITTALS”**
- **ALL PRICES AND NOTATIONS MUST BE PRINTED IN INK OR TYPEWRITTEN; NO ERASURES ARE PERMITTED; ERRORS MAY BE CROSSED OUT AND CORRECTIONS PRINTED IN INK OR TYPEWRITTEN ADJACENT, AND MUST BE INITIALED IN INK BY PERSON SIGNING THE RFQ RESPONSE.**
- **BIDDERS THAT DO NOT COMPLY WITH THE REQUIREMENTS, AND/OR SUBMIT AN INCOMPLETE RFQ RESPONSE MAY BE SUBJECT TO DISQUALIFICATION AND THEIR RFQ RESPONSE REJECTED IN TOTAL.**
- **IF BIDDERS ARE MAKING ANY CLARIFICATIONS AND/OR AMENDMENTS, OR TAKING EXCEPTION TO ANY PART OF THIS RFQ, THESE MUST BE SUBMITTED IN THE EXCEPTIONS, CLARIFICATIONS, AND AMENDMENTS SECTION OF THIS EXHIBIT A – RFQ RESPONSE PACKET. THE DISTRICT, AT ITS SOLE DISCRETION, MAY ACCEPT AMENDMENTS/EXCEPTIONS, OR MAY DEEM THEM TO BE UNACCEPTABLE, THEREBY RENDERING THE RFQ RESPONSE DISQUALIFIED.**



BIDDER INFORMATION AND ACCEPTANCE

1. The undersigned declares that all RFQ documents, including, without limitation, the RFQ, 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 RFQ documents of RFQ No. 1602.
3. The undersigned acknowledges acceptance of all addenda related to this RFQ. List Addenda for this RFQ on the lines below:

Addendum #	Date

4. The undersigned hereby certifies to the District that all representations, certifications, and statements made by the bidder, as set forth in this RFQ 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 bidder 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 RFQ and associated RFQ documents.
6. It is the responsibility of each bidder to be familiar with all of the specifications, terms, and conditions and, if applicable, the site condition. By the submission of an RFQ response, the bidder 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: Contractors 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 – RFQ Response Packet, the bidder agrees to meet the minimum insurance requirements stated in the RFQ. 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 RFQ.
9. The undersigned bidder hereby submits this RFQ response and binds itself on award to the District under this RFQ to execute in accordance with such award a contract and to furnish the bond or bonds and insurance required by the RFQ. The RFQ, subsequent Addenda, bidder's Response Packet, and any attachments, shall constitute the Contract, and all provisions thereof are hereby accepted.
10. The undersigned acknowledges **ONE** of the following (please check only one box)*:

- ☐ Bidder is not an SBE and is ineligible for any bid preference; **OR**
- ☐ Bidder is an SBE as described in the Contract Equity Program (CEP) and Equal Employment Opportunity (EEO) Guidelines, is requesting a 5% bid preference, and has completed the Contract Equity Program and Equal Employment Opportunity forms at the hyperlink contained in the Contract Equity Program and Equal Opportunity section of this Exhibit A.

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

Official Name of Bidder (exactly as it appears on Bidder'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: _____

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

Cost shall be submitted on this Bid Form as is. The prices quoted shall not include Sales Tax or Use Tax; said tax, wherever applicable, will be paid by the District to the contractor, if licensed to collect, or otherwise directly to the State.

No alterations or changes of any kind to the Bid Form(s) are permitted. RFQ responses that do not comply may be subject to rejection in total. The cost quoted below shall be the cost the District will pay for the term of any contract that is a result of this RFQ process.

Quantities listed herein are annual estimates based on past usage and are not to be construed as a commitment. No minimum or maximum is guaranteed or implied.

PLEASE BID ONLY ONE PRODUCT. NAME OF PRODUCT: _____ .

ITEM	ESTIMATED ANNUAL QUANTITY	DESCRIPTION	AS DELIVERED NEAT POLYMER		TOTAL PRICE BID
			DOSE RATE Active- Lbs/Dry Ton Feed	UNIT PRICE \$/Active- Lbs.	
1	18,000 dry tons/year	Polymeric flocculant in sufficient quantity to thicken waste-activated sludge (dry weight) in the thickening belt.	_____	\$ _____	\$ _____



REQUIRED DOCUMENTATION AND SUBMITTALS

All of the specific documentation listed below is required to be submitted with the Exhibit A – RFQ Response Packet. Bidders shall submit all documentation, in the order listed below, and clearly label each section of the RFQ response with the appropriate title (i.e. Table of Contents, Letter of Transmittal, Key Personnel, etc.).

1. References

- (a) Bidders must use the templates in the “References” section of this Exhibit A – RFQ Response Packet to provide references.
- (b) References should have similar scope, volume, and requirements to those outlined in these specifications, terms, and conditions.
 - Bidders must verify the contact information for all references provided is current and valid.
 - Bidders are strongly encouraged to notify all references that the District may be contacting them to obtain a reference.
- (c) The District may contact some or all of the references provided in order to determine Bidder’s performance record on work similar to that described in this RFQ. The District reserves the right to contact references other than those provided in the RFQ response.

2. Exceptions, Clarifications, Amendments:

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

3. Contract Equity Program:

- (a) Every bidder 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, "Contractor Employment Data and Certification"; and Form P-46, "Designation of Subcontractors."** Any bidder needing assistance in completing these forms should contact the District's Contract Equity Office at (510) 287-0114 prior to submitting an RFQ response.



REFERENCES

RFQ No. 1602 – Thickening Polymeric Flocculants

Bidder Name: _____

Bidder must provide a minimum of 3 references.

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:	



EXCEPTIONS, CLARIFICATIONS, AMENDMENTS

RFQ No. 1602 – Thickening Polymeric Flocculants

Bidder Name: _____

List below requests for clarifications, exceptions, and amendments, if any, to the RFQ and associated RFQ Documents, and submit with bidder's RFQ response. **The District is under no obligation to accept any exceptions and such exceptions may be a basis for RFQ response disqualification.**

Reference to:			Description
Page No.	Section	Item No.	
p. 23	D	1.c.	<i>Bidder takes exception to...</i>

*Print additional pages as necessary



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 contractors 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 bid.

Non-compliance with the Guidelines may deem a bid 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 – RFQ Response Packet, the bidder agrees to meet the minimum insurance requirements stated in the RFQ. 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 Contractor performing on this RFQ:

INDEMNIFICATION AND INSURANCE

A. Indemnification

CONTRACTOR 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 CONTRACTOR'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

CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR of any of the insurance requirements, nor decrease the liability of CONTRACTOR. The District reserves the right to require CONTRACTOR to provide insurance policies for review by the District.

C. Workers Compensation Insurance

CONTRACTOR 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. CONTRACTOR shall require any subcontractor to provide it with evidence of Workers Compensation Insurance.

D. Commercial General Liability Insurance

CONTRACTOR 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 CONTRACTOR elects to self-insure (self-fund) any liability exposure during the contract period above \$50,000, CONTRACTOR 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. CONTRACTOR shall require any subcontractor 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 the use of *owned, non-owned* and hired automobiles.
7. 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.
8. 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
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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. **“Goods”** means off the shelf software and all types of tangible personal property, including but not limited to materials, supplies, and equipment.
- j. **“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.
- k. **“Work”** means all labor, tasks, materials, supplies, and equipment required to properly fulfill the Contractor’s obligations as required in the Contract Documents.
- l. **“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 Engineer. 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 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).
- 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.

THICKENING POLYMERIC FLOCCULANTS

QUESTIONNAIRE

THE BIDDER SHALL PROVIDE THE FOLLOWING:

Confirm that manufacturer/supplier has a minimum of 5 years' experience regularly engaged in the business of manufacturing, supplying, and applying polymeric flocculants for sludge thickening for municipal wastewater treatment facilities. _____

Give location of the physical plant and statement attesting to manufacturing capacities to manufacture, furnish and deliver the work specified. _____

Provide a list of major chemical constituents used in production process and a statement attesting to your ability to procure these process components. _____

Provide statement that manufacturer has and will maintain competent field service personnel available on a 24 hour/day, 7 day/week basis for the entire contract period. _____

List the names and phone numbers of at least 3 references who can report about the successful use of similar products to the proposed product(s) under similar applications and conditions within the last five years.

State manufacturer and name or numbers identifying polymer bid. _____

List special mixing, feeding, and/or liquid storage equipment required in addition to existing District equipment to be furnished by the Contractor.

ATTACHMENT 1 Specification for each Chemical

SPECIFICATION SHEET

- These specifications constitute the Specification of the product being bid.
- All test methods and procedures used to determine Specifications shall be furnished with bid. **

Polymer Supplier	
Polymer Type	
Polymer Trade Name	
Polymer % Active	%
Price per Pound Active	\$
Price per Pound Neat	\$

	Report Units in	Specification
Minimum Active Solids**	<i>Wt</i> %	
Residual Acrylamide**	%	
Maximum Inert Solids**	<i>Wt</i> %	
Viscosity Range**	cPs	
UL Viscosity**	cPs	
0.5 % Solution pH**	None	
0.25% sol. at 25 degrees centigrade		
Cationicity**	%	
Molecular Weight**		
Bulk Density Range**	lbs/gal	

For Neat Liquid Polymers		
Specific Gravity	none	
Percent Active Solids**	%	
Freezing Point**	Fahrenheit	
Flash Point**	Fahrenheit	

Minimum Storage Life in days:

Neat Liquid	