

EAST BAY MUNICIPAL UTILITY DISTRICT

REQUEST FOR PROPOSAL (RFP) for Walk-in Payment Processing Services 2017

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

RESPONSE DUE
by
4:00 p.m.
on
May 16, 2017
at
EBMUD, Purchasing Division
375 Eleventh St., First Floor
Oakland, CA 94607



375 Eleventh Street, Oakland, CA 94607
Website: ebmud.com

EAST BAY MUNICIPAL UTILITY DISTRICT

RFP

for

Walk-in Payment Processing Services 2017

TABLE OF CONTENTS

I.	STATEMENT OF WORK.....	3
A.	SCOPE	3
B.	PROPOSER QUALIFICATIONS	3
C.	SPECIFIC REQUIREMENTS	4
D.	IMPLEMENTATION, TRAINING AND ON-GOING SUPPORT	6
E.	SYSTEM SECURITY/CONFIDENTIALITY.....	7
F.	SPECIAL REQUIREMENTS	7
G.	MAINTENANCE	9
H.	DEVIATIONS/EXCEPTIONS.....	10
I.	TERM OF AGREEMENT AND PRICING	10
II.	CALENDAR OF EVENTS	11
III.	DISTRICT PROCEDURES, TERMS, AND CONDITIONS	11
A.	RFP ACCEPTANCE AND AWARD	11
B.	EVALUATION CRITERIA/SELECTION COMMITTEE	12
C.	PRICING	14
D.	PROTESTS.....	14
E.	WARRANTY	15
F.	INVOICING	16
G.	LIQUIDATED DAMAGES.....	16
IV.	RFP RESPONSE SUBMITTAL INSTRUCTIONS AND INFORMATION	16
A.	DISTRICT CONTACTS	16
B.	SUBMITTAL OF RFP RESPONSE	17
C.	RESPONSE FORMAT	18

ATTACHMENTS

EXHIBIT A - RFP RESPONSE PACKET

EXHIBIT B - INSURANCE REQUIREMENTS

EXHIBIT C - GENERAL REQUIREMENTS

EXHIBIT D - STANDARD SERVICE AGREEMENT

EXHIBIT E – PRELIMINARY SECURITY INFORMATION GATHERING (PSIG)

EXHIBIT F – WALK-IN PAYMENT FILE FORMAT AND EXAMPLES

I. STATEMENT OF WORK

A. SCOPE

It is the intent of these specifications, terms, and conditions to describe walk-in payment processing services throughout the District's service area to EBMUD customers.

East Bay Municipal Utility District (District) intends to award a three-year contract with two options to renew for one-year terms to the Proposer(s) who best meets the District's requirements.

OBJECTIVE

The objective is to provide EBMUD customers a way to pay their water bills using cash. EBMUD expects the Proposer to achieve the following:

- Provide a reliable, cost effective payment solution for EBMUD and its customers.
- Provide significant experience implementing and supporting Walk-in Payment Services for a variety of governmental and non-governmental organizations.
- Provide the experience and ability to provide EBMUD with direction, advice, analysis, workflow/business process recommendations, and technical implementation and training support.
- Minimize the distance EBMUD customers need to travel to pay their water bills using cash.

B. PROPOSER QUALIFICATIONS

1. Proposer Minimum Qualifications

- a. Proposer, Proposer's principal, or Proposer's staff shall have been regularly engaged in the business of providing walk-in payment processing services for at least five (5) years.
- b. Meets all PCI compliance standards if proposal includes the ability for customers to make payment with checks, credit cards, or debit cards.
- c. Proposer shall possess all permits, licenses, and professional credentials necessary to perform services as specified under this RFP.

C. SPECIFIC REQUIREMENTS

1. GENERAL – EBMUD is soliciting proposals for provide walk-in payment processing services to EBMUD customers at locations throughout the EBMUD service area.
 - a. EBMUD SERVICE AREA – This area includes the California town of: Alameda, Alamo, Albany, Berkeley, Castro Valley, Crockett, Danville, Diablo, El Cerrito, El Sobrante, Emeryville, Hayward, Hercules, Kensington, Lafayette, Moraga, Oakland, Orinda, Piedmont, Pinole, Pleasant Hill, Richmond, Rodeo, San Leandro, San Lorenzo, San Pablo, San Ramon, Selby and Walnut Creeks
2. BACKGROUND – The District bills customers for water and wastewater services as well as Agency charges on behalf of other public Agencies.
 - a. 370,000 accounts are billed monthly or bi-monthly and are payable when received. The District currently contracts with MoneyGram to provide Walk-in Payment Processing Services.
 - b. In Calendar Year 2016 the district processed approximately 65,000 walk-in payments at EBMUD authorized pay stations totaling approximately \$11,000,000.
3. The VENDOR shall provide licensing and services to support Walk-in Payment Processing Services. Proposer shall also provide assistance in the initial implementation, migration, training and ongoing system maintenance.
4. Walk-in Payment Processing Services shall be provided for a period of three years beginning 2017 and ending 2020, with two options, to be exercised at the sole discretion of the District, to extend the contract for additional two (1)-year periods ending 2021 and 2022, respectively.
5. VENDOR shall provide an existing client services infrastructure throughout the EBMUD service area to handle walk-in payment transactions. The District will select pay stations that will be authorized to collect utility payments where there will be no fee to EBMUD customers from vendor's network. All available pay station locations may not be selected. It is critical to have a pay station location within walking distance of 375 11th Street, Oakland, California.
6. VENDOR must provide customer support to pay station locations, to EBMUD staff, and to individual EBMUD customers to assist in problem resolution.
7. DISTRICT reserves the right to periodically audit the vendor's pay stations with respect to procedures, fiscal controls, and examination of records and documentation related to all matters covered in this RFP.

8. VENDOR must maintain agents; recruit, train, supply equipment, software and supplies, all system support and maintain quality control including balanced deposits, and no payment or deposit delays.
9. Personnel trained to process customer payments, including data entry of payment information, must staff pay station locations.
10. VENDOR must not release District customer information to any person or party without written authorization from District.
11. VENDOR must get approval from the District before posting any signage showing District's name or District's logo.
12. SYSTEM REQUIREMENTS
 - a. VENDOR must maintain the Walk-in Payment Processing system in good operating condition and maintain quality control, including balanced deposits, and no payment or deposit delays.
 - b. VENDOR must profile bill payment at pay stations located throughout the EBMUD SERVICE AREA that are free of charge for the District's customers.
 - c. VENDOR must provide a District administrative portal to research and view customer payment transactions.
 - (1) Portal must have, but not limited to, 11 digit account number, service address, customer name, phone number, and pay station location.
 - (2) Portal must be accessible to District Staff for up to 60 days after the expiration of the agreement to provide Walk-in Payment Processing services.
 - d. VENDOR must supply a single electronic data record file in ASCII format for daily transmission to the District by 6:00 am PST daily. This file is to include all payments made to all pay station locations up to 11:59:59 pm PST the previous day. The file will contain the EBMUD 11-digit account number, the corresponding amount paid for each item in the file, and the payment tender method (cash, check, money order). See Exhibit G for specification of the file.
 - e. Pay station locations must issue a receipt to customers including exact payment amount, EBMUD 11-digit account number, date, pay station name, and payment method if payment methods other than cash are accepted. If multiple accounts are paid, receipt must include amount paid per corresponding District account number.

- f. VENDOR must deposit/ACH funds (credit only) to EBMUD bank account within two business days after receipt of customer payment information via pay station locations.
- g. In addition to the regular payment data transfer, EBMUD may require a listing of all payments received since the last payment file transfer.
- h. Vendor must discontinue District bill payment collection at designated pay station location(s), if requested by the District in writing.
- i. Pay station locations must agree payment collection will remain free to District customers.
 - (1) Written authorization by the District is required for any pay station location which does not remain free to District customers.
- j. VENDOR must submit to District an updated pay station list including business name, address, languages spoken, pay station days and hours of payment collection, contact name and telephone number every time there is a change to the pay station list.
- k. VENDOR shall supply payment confirmation codes that are numeric and which do not exceed 10 digits in length.

D. IMPLEMENTATION, TRAINING AND ON-GOING SUPPORT

- 1. VENDOR shall pre-stage and test all hardware and software components at newly added or additional agent locations with DISTRICT bill stub prior to implementation, including generating a test-HOST file. Contractor shall invite District staff to participate in final pre-staged testing process.
- 2. Vendor shall provide test environment which allows testing prior to go live through to banking establishment.
- 3. VENDOR shall define functional requirement variances, and submit final system specifications for review and approval by District project staff.
- 4. VENDOR shall provide a single point of contact for supplies, ongoing education and training and other areas related to the operation of the system.
- 5. VENDOR shall be responsible for any debugging of its software with periodic quality control checks.
- 6. VENDOR shall provide to District a complete set of electronic documentation and electronic training manuals for the proposed system, including instructions specific to the District's operation.

E. SYSTEM SECURITY/CONFIDENTIALITY

1. Describe electronic security measures in place in all areas District customer account information is sent, received, or stored electronically.
2. Describe any bonding or insurance provisions that would protect the District from loss of funds.
3. Provide data privacy policy for District customers using VENDOR's solution.
4. Describe any security protocols for transmission of District and customer data.
5. What customer data is stored on your system? Of the data stored what will District have access to?

F. SPECIAL REQUIREMENTS

1. DESIRED INFORMATION AND POINTS TO COVER IN PROPOSAL SUBMITTAL
 - a. State options available to the District for receiving daily reports that contain District customer water bill payments made since last data transfer, showing amount paid per District account number.
 - b. Describe how you can notify District immediately of payment in the event customer indicates water is off.
 - c. State willingness to allow file retrieval to be done by District from VENDOR's secured internet web site.
 - d. Describe steps/utilities involved in recovering a database in case of corrupted data.
 - e. Describe the processes related to a situation where you discover an incorrect payment amount was reported to the District on an account.
 - f. Describe the processes related to a situation where the District discovers an incorrect payment amount was reported to the District on an account.
 - g. Provide a contact tree for data transfer problems, billing issues and any payment research items that may occur, hours of availability and service level agreements.
 - h. Describe systems and processes that would allow District staff or customers to confirm the amount of a payment made by a customer. Do you provide real-time inquiry for bill payments received? Can District staff or customers call or go on-line to see if an account was paid at any time since the last file transfer?

- i. Describe technical options for data transmission.
- j. Describe outsource process including change of sub-contractors and processes in place to ensure their performance.
- k. List current authorized automated pay station locations in the District's service area, including name, address zip code, and languages spoken. Provide subtotals for each city. If possible, include names of other businesses/utilities that customers can pay bills for in each location.
- l. State willingness to recruit new automated pay station locations in areas the District designates. (List any additional cost to EBMUD for this on the Bidding Sheet.) Describe the process of locating and qualifying new pay station locations and preparing them for operation. How long does this process take?
- m. Describe the notification process (to EBMUD and customers) when pay station locations change.
- n. Do you maintain information on pay station locations by city than can be used by EBMUD staff to inform customers of locations and hours of operations? How often is this information updated? Is it available on the Internet?
- o. Describe quality assurance procedures over pay station locations.
- p. Describe, in detail, the entire payment process from the point a customer pays to the point the payment is deposited in the EBMUD bank account and the payment information is transmitted to EBMUD.
- q. What kind of flexibility does the District have to organize the format of the data that is being transferred to the District? If the District wants to change the data format, how much flexibility does the District have without engaging the vendor?
- r. Describe the timing of movement and availability of funds.
- s. Describe how you handle payments reported in error. District does not allow for vendor-initiated debits to the District's fiscal account.
- t. Describe how you can notify EBMUD immediately of payment in the event customer indicates water is off.
- u. State willingness to ensure that signage (provided by EBMUD) is properly displayed at all pay station locations.

- v. Describe standard reports that are available. Provide examples.
- w. Describe the process and timing of following up on customer questions such as payments not posted to a customer's account. Are images of the payment coupon available for viewing over secure Internet connections for EBMUD research?
- x. Describe the resources (including number of employees) dedicated to information systems, customer and client services, pay station support and training, and operations.
- y. Describe your policy regarding services provided to customers beyond maintenance (i.e. time and materials cost basis). Include all these costs as separate line items on Bidding Sheet.
- z. Describe whether you provide notes to most commonly experienced problems to allow customer to read instructions and solve without the need to log support calls? Explain what is available.
- aa. Describe all payment methods available to District customers at your pay stations such as cash, checks, money orders, credit cards, or debit cards.
- bb. Describe vendor's ability to provide real-time payment data files to allow for District's CIS (Customer Information system) via application Programming Interface (API) set system updates. This would be for information purpose and is not the standard remittance file.
- cc. Please describe a roadmap for upgrades
 - (1) How often have you released major software upgrades to clients in the last 5 years?
 - (2) How often have you released emergency patches in the last 5 years?
 - (a) Describe the impetus for the emergency patches.

G. MAINTENANCE

1. VENDOR shall immediately notify the District of all electronic transmissions failed or delivered.
2. VENDOR must maintain all support for Walk-in Payment Processing services, including but not limited to hardware/software support, supplies, payment research and training. District has no responsibility for Walk-in Payment Processing maintenance.

3. VENDOR must equip, train, maintain, and oversee walk-in pay station operations and personnel.
4. Hardware and software support shall be provided for the overall system through a single point of contact. The VENDOR shall be this single point of contact.
5. If VENDOR provides remote diagnostic capabilities, describe these capabilities in full.
6. VENDOR shall immediately notify the District when District customer are no longer able to make payment at a pay station which has previously been represented to the District as being an authorized pay station.

H. DEVIATIONS/EXCEPTIONS

TAKING EXCEPTION TO THE PROPOSAL OR FAILURE ON THE PART OF THE BIDDER TO COMPLY WITH ALL REQUIREMENTS AND CONDITIONS OF THIS PROPOSAL MAY SUBJECT THE BIDDER TO REJECTION. IF NO DEVIATIONS ARE SHOWN, THE BIDDER WILL BE REQUIRED TO FURNISH THE PRODUCTS AND SERVICES EXACTLY AS SPECIFIED HEREIN. THE BURDEN OF PROOF OF COMPLIANCE WITH THE SPECIFICATIONS SHALL BE THE RESPONSIBILITY OF THE VENDOR.

This Request for Proposal is subject to acceptance only on the terms and conditions stated in this Request for Proposal. Any additional or different terms and conditions proposed by vendor are hereby rejected, and shall be of no force or effect unless expressly assented to in writing by the District. There shall be no contract except upon the terms and conditions provided in this Request for Proposal.

District terms and conditions supersede bidders' terms and conditions.

I. TERM OF AGREEMENT AND PRICING

The term of contract awarded under this proposal shall be for the three-year period beginning Month XX, 2017 and ending Month xx, 2020, with two (2) options, to be exercised at the sole discretion of the District, to extend the contract for additional one (1)-year periods.

The District may consider price increases in determining compensation only when the District exercises its option(s) to extend the term of this Agreement. Any price increase submitted by VENDOR shall be based on the Bureau of Labor Statistics Consumer Price Index, the monthly CPI-W for the San Francisco/Oakland/San Jose Region, and shall cover the one-year period under consideration. Price increases above the CPI will not be

considered. Price decreases can be submitted at any time during the term of this Agreement. If no price increase or decrease is made by the District for the option period(s), the price for each one-year option period shall be one-fifth of the price bid for the five-year base period.

II. CALENDAR OF EVENTS

EVENT	DATE/LOCATION
RFP Issued	April 24, 2017
Response Due	May 16, 2017 by 4:00 p.m.
Anticipated Contract Start Date	July 1, 2017

Note: All dates are subject to change.

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

III. DISTRICT PROCEDURES, TERMS, AND CONDITIONS

A. RFP ACCEPTANCE AND AWARD

1. RFP responses will be evaluated by the Selection Committee and will be scored and ranked in accordance with the RFP section entitled "Evaluation Criteria/Selection Committee."
2. The Selection Committee will recommend award to the Proposer who, in its opinion, has submitted the RFP response that best serves the overall interests of the District. Award may not necessarily be made to the Proposer with the lowest overall cost.
3. The District reserves the right to award to a single or to multiple General or Professional Service Providers, dependent upon what is in the best interest of the District.
4. The District has the right to decline to award this contract or any part of it for any reason.
5. Any specifications, terms, or conditions issued by the District, or those included in the Proposer's submission, in relation to this RFP, may be incorporated into any purchase order or contract that may be awarded as a result of this RFP.

6. Award of contract. The District reserves the right to reject any or all proposals, to accept one part of a proposal and reject the other, unless the bidder stipulates to the contrary, and to waive minor technical defects and administrative errors, as the interest of the District may require. Award will be made or proposals rejected by the District as soon as possible after bids have been opened.

B. EVALUATION CRITERIA/SELECTION COMMITTEE

All proposals will be evaluated by a Selection Committee. The Selection Committee may be composed of District staff and other parties that have expertise or experience in this type of procurement. The Selection Committee will select a Proposer in accordance with the evaluation criteria set forth in this RFP. The evaluation of the RFP responses shall be within the sole judgment and discretion of the Selection Committee.

The Selection Committee will evaluate each RFP response meeting the qualification requirements set forth in this RFP. Proposer should bear in mind that any RFP response that is unrealistic in terms of the technical or schedule commitments, or unrealistically high or low in cost, will be deemed reflective of an inherent lack of technical competence or indicative of a failure to comprehend the complexity and risk of the District's requirements as set forth in this RFP.

RFP responses will be evaluated according to the Evaluation Criteria below.

The Evaluation Criteria are as follows:

	Evaluation Criteria
A.	<p>Technical Criteria:</p> <p>In each area described below, an evaluation will be made of the probability of success of and risks associated with, the RFP response:</p> <ol style="list-style-type: none"> 1. System Design - A comparison will be made of the proposed systems. Additional credit will be given for features of the proposed design that offer enhanced utility, ease of use, or ease of integration with existing equipment and systems. 2. Software Design and Development - The evaluation will compare the proposed software capabilities with the requirements of this RFP in terms of the software's compatibility with existing management and data processing systems. 3. Life-Cycle Support - An assessment will be made of the scope and extent of resources required to operate and maintain the proposed system. 4. Ancillary Services - A comparison will be made of the proposed services with the requirements of this RFP. Credit will be given for convenience, responsiveness, and technical expertise.
B.	Cost:

	<p>An evaluation may also be made of:</p> <ol style="list-style-type: none"> 1. Reasonableness (i.e., does the proposed pricing accurately reflect the Proposer's effort to meet requirements and objectives?); 2. Realism (i.e., is the proposed cost appropriate to the nature of the products and services to be provided?); and 3. Affordability (i.e., the ability of the District to finance this project). <p>Consideration of price in terms of overall affordability may be controlling in circumstances where two or more RFP responses are otherwise judged to be equal, or when a superior RFP response is at a price that the District cannot afford.</p>
C.	<p>Implementation Plan and Schedule:</p> <p>An evaluation will be made of the likelihood that the Proposer's implementation plan and schedule will meet the District's schedule. Additional credit will be given for the identification and planning for mitigation of schedule risks which the Proposer believes may adversely affect any portion of the District's schedule.</p>
D.	<p>Relevant Experience and References:</p> <p>RFP responses will be evaluated against the RFP specifications and the questions below:</p> <ol style="list-style-type: none"> 1. Do the individuals assigned to the project have experience on similar projects? 2. Are résumés complete and do they demonstrate backgrounds that would be desirable for individuals engaged in the work the project requires? 3. How extensive is the applicable education and experience of the personnel designated to work on the project?
E.	<p>Oral Presentation and Interview:</p> <p>The oral interview may consist of standard questions asked of each of the Proposers and specific questions regarding the specific RFP response.</p>
F.	<p>Understanding of the Project:</p> <p>RFP responses will be evaluated against the RFP specifications and the questions below:</p> <ol style="list-style-type: none"> 1. Has the Proposer demonstrated a thorough understanding of the purpose and scope of the project? 2. How well has the Proposer identified pertinent issues and potential problems related to the project? 3. Has the Proposer demonstrated that it understands the deliverables the District expects it to provide? <p>Has the Proposer demonstrated that it understands the District's time schedule and can meet it?</p>

G.	Methodology: RFP responses will be evaluated against the RFP specifications and the questions below: <ol style="list-style-type: none"> 1. Does the methodology depict a logical approach to fulfilling the requirements of the RFP? 2. Does the methodology match and contribute to achieving the objectives set out in the RFP? 3. Does the methodology interface with the District's time schedule?
H.	Contract Equity Program: <ol style="list-style-type: none"> 1. Proposer shall be eligible for SBE preference points if they are a certified small business entity, as described in the guidelines contained in Exhibit A-Contract Equity Program, <u>and</u> they check the appropriate box, requesting preference, in Exhibit A-Proposer Information and Acceptance.

C. PRICING

1. Prices quoted shall be firm for the three years and for 2 one- year renewals if optioned of any contract that may be awarded pursuant to this RFP.
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. Proposers 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. PROTESTS

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

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

Bid protests must contain a detailed and complete written statement describing the reason(s) for protest. The protest must include the name and/or number of the bid, the name of the firm protesting, and include a name, telephone number, email address and

physical address of the protester. If a firm is representing the protester, they shall include their contact information in addition to that of the protesting firm.

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

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

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

The District may transmit copies of the protest and any attached documentation to all other parties who may be affected by the outcome of the protest. The decision of the District as to the validity of any protest is final. This District's final decision will be transmitted to all affected parties in a timely manner.

E. WARRANTY

1. Proposer expressly warrants that all goods and services to be furnished pursuant to any contract awarded it arising from the Proposal 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. Proposer 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. Proposer warrants that all work and services furnished hereunder shall be guaranteed for a period of five years from the date of acceptance by the District.

F. 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 General or Professional Service Provider of any invoice adjustments required.
3. Invoices shall contain, at a minimum, District purchase order number, invoice number, remit to address, and itemized services description.
4. The District will pay General or Professional Service Provider in an amount not to exceed the negotiated amount(s) which will be referenced in the agreement signed by both parties.

G. LIQUIDATED DAMAGES

1. In the event performance and/or deliverables have been deemed unsatisfactory, the District reserves the right to withhold future payments until the performance and/or deliverables are deemed satisfactory.

IV. RFP RESPONSE SUBMITTAL INSTRUCTIONS AND INFORMATION

A. DISTRICT CONTACTS

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

FOR INFORMATION REGARDING TECHNICAL SPECIFICATIONS:

Attn: William Sharp, Customer Services Manager

EBMUD- Customer Services Support Division

E-Mail: william.sharp@ebmud.com

PHONE: (510) 287-

FOR INFORMATION ON THE CONTRACT EQUITY PROGRAM:

Attn: Contract Equity Office

PHONE: (510) 287-0114

AFTER AWARD:

Attn: William Sharp, Customer Services Manager

EBMUD- Customer Services Support Division

E-Mail: william.sharp@ebmud.com

PHONE: (510) 287-

B. SUBMITTAL OF RFP RESPONSE

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

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

Mailed:

Andrew Akelman, Manager of Purchasing
East Bay Municipal Utility District
Walk-in Payment Processing Services 2017
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-EBMUD
East Bay Municipal Utility District
Walk-in Payment Processing Services 2017
EBMUD–Purchasing Division
375 Eleventh Street, First Floor
Oakland, CA 94607

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

5. Proposers are to submit one (1) original hardcopy RFP response (Exhibit A – RFP Response Packet, including Contract Equity Program forms and all additional

documentation stated in the “Required Documentation and Submittals” section of Exhibit A), all with original ink signatures.

Proposers **must** also submit an electronic copy of their RFP response, with their hardcopy RFP response Package. The file must be on a disk or USB flash drive and enclosed with the sealed original hardcopy of the RFP response. The electronic copy should be in a single file (PDF) format, and shall be an **exact** scanned image of the original hard copy Exhibit A – RFP Response Packet, Contract Equity Program forms and all additional documentation stated in the “Required Documentation and Submittals” section of Exhibit A.

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

C. RESPONSE FORMAT

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



EXHIBIT A

RFP RESPONSE PACKET

RFP For – Walk-in Payment Processing Services 2017

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

From: _____
(Official Name of Proposer)

RFP RESPONSE PACKET GUIDELINES

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



PROPOSER INFORMATION AND ACCEPTANCE

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

Addendum #	Date

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

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

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

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

Street Address Line 1: _____

Street Address Line 2: _____

City: _____ State: _____ Zip Code: _____

Webpage: _____

Type of Entity / Organizational Structure (check one):

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

Jurisdiction of Organization Structure: _____

Date of Organization Structure: _____

Federal Tax Identification Number: _____

Department of Industrial Relations (DIR) Registration Number: _____

Primary Contact Information:

Name / Title: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

Street Address Line 1: _____

City: _____ State: _____ Zip Code: _____

SIGNATURE: _____

Name and Title of Signer (printed): _____

Dated this _____ day of _____ 20_____



BIDDING SHEET

Cost shall be submitted on this Proposal 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 General or Professional Service Provider, if licensed to collect, or otherwise directly to the State.

No alterations or changes of any kind to the Proposal Form(s) are permitted. RFP 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 RFP 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.

	DESCRIPTION	Estimated Annual Quantity	Per Item Fee	AMOUNT
1.	Per Item Transaction Fee to Pay Station	65,000	X	= \$
2.	Per Item Fee Paid to Vendor	65,000	X	= \$
3.	Monthly Fee Per Pay Station (if any)	12 months X # of pay stations	X	= \$
4.	Returned Item Fee	0	X	= \$
5.	Payment Research Fee	1,000	X	= \$
6.	Set-up/Installation/Implementation Fees			= \$
7.	Any other fees or costs not itemized above:			= \$
8.				= \$
9.				= \$
10.				= \$
11.				= \$
12.			Total:	\$

ANNUAL MAINTENANCE COSTS (IF APPLICABLE)	AMOUNT
YEAR 1	\$
YEAR 2	\$
YEAR 3	\$
YEAR 4	\$
YEAR 5	\$
TOTAL:	\$



Payment Term Discount_____

Any discount or discounts offered by the bidder must allow for payment after receipt and acceptance of the material or correct invoice, whichever is later.

Payment terms less than 20 days will not be accepted.

Bidder's Federal E. I. Number_____

Small Business Enterprise?* ☐ Yes ☐ No

*As stated in the CEP/EEO Guidelines in this proposal.



REQUIRED DOCUMENTATION AND SUBMITTALS

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

1. **Table of Contents:** RFP response shall include a table of contents listing the individual sections of the proposal and their corresponding page numbers.
2. **Letter of Transmittal:** RFP response shall include a description of the Proposer's capabilities and approach in providing its services to the District, and provide a brief synopsis of the highlights of the RFP response and overall benefits to the District. This synopsis should not exceed three (3) pages in length and should be easily understood.
3. **Key Personnel:** RFP response shall include a complete list of all key personnel associated with the RFP. This list must include all key personnel who will provide services/training to District staff and all key personnel who will provide maintenance and support services. For each person on the list, the following information shall be included:
 - (a) The person's relationship with the Proposer, including job title and years of employment with the Proposer;
 - (b) The role that the person will play in connection with the RFP;
 - (c) The person's telephone number, fax number, and e-mail address;
 - (d) The person's educational background; and
 - (e) The person's relevant experience, certifications, and/or merits
4. **Description of the Proposed Equipment/System:** RFP response shall include a description of the proposed equipment/system, as it will be finally configured during the term of the contract. The description shall specify how the proposed equipment/system will meet or exceed the requirements of the District and shall explain any advantages that this proposed equipment/system would have over other possible equipment/systems. The description shall include any disadvantages or limitations that the District should be aware of in evaluating the RFP response. Finally, the description shall describe all product warranties provided by the Proposer.
5. **Description of the Proposed Services:** RFP response shall include a description of the terms and conditions of services to be provided during the contract term including response times. The description shall contain a basis of estimate for services including its scheduled start and completion dates, the number of Proposer's and District personnel involved, and the number of hours scheduled for each person. The description shall identify spare or replacement parts

that will be required in performing maintenance services, the anticipated location(s) of the spare parts, and how quickly the parts shall be available for repairs. Finally, the description must: (1) specify how the services in the RFP response will meet or exceed the requirements of the District; (2) explain any special resources or approaches that make the services of the Proposer particularly advantageous to the District; and (3) identify any limitations or restrictions of the Proposer in providing the services that the District should be aware of in evaluating its RFP response to this RFP.

6. **Implementation Plan and Schedule:** The RFP response shall include an implementation plan and schedule. The plan for implementing the proposed equipment/system and services shall include an Acceptance Test Plan. In addition, the plan shall include a detailed schedule indicating how the Proposer will ensure adherence to the timetables for the final equipment/system and/or services.
7. **Evidence of Qualification Testing:** RFP response provides evidence that the proposed equipment/system has successfully completed the qualification test standard requirements defined in this RFP. Evidence shall include a statement from an Independent Testing Authority (ITA) that both the hardware elements and the software elements of the proposed equipment/system comply with the requirements of the qualification standard. If the equipment/system specified requires the addition of components or features not previously tested by the ITA, the District will determine, in its sole discretion, whether qualification testing of such components or features will be required prior to the award of a contract.
8. **References:**
 - (a) Proposers must use the templates in the “References” section of this Exhibit A – RFP Response Packet to provide references.
 - (b) References should have similar scope, volume, and requirements to those outlined in these specifications, terms, and conditions.
 - Proposers must verify the contact information for all references provided is current and valid.
 - Proposers 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 Proposer’s performance record on work similar to that described in this RFP. The District reserves the right to contact references other than those provided in the RFP response and to use the information gained from them in the evaluation process.

9. **Exceptions, Clarifications, Amendments:**

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

10. **Contract Equity Program:**

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



REFERENCES

RFP For - Walk-in Payment Processing Services 2017

Proposer Name: _____

Proposer must provide a minimum of three (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

RFP For - Walk-in Payment Processing Services 2017

Proposer Name: _____

List below requests for clarifications, exceptions, and amendments, if any, to the RFP and associated RFP documents, and submit with your RFP response.

The District is under no obligation to accept any exceptions and such exceptions may be a basis for RFP response disqualification.

Reference to:			Description
Page No.	Section	Item No.	
p. 23	D	1.c.	<i>Proposer 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 General or Professional Service Providers regardless of their race, gender, or ethnicity.

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

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

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

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

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

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

[Contract Equity Program Guidelines and Forms](#)

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

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

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



EXHIBIT B

INSURANCE REQUIREMENTS

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

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

Revise the below amounts and required coverages as instructed by Risk Management.

INDEMNIFICATION AND INSURANCE

A. Indemnification

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

B. Insurance Requirements

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

C. Workers Compensation Insurance

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

D. Commercial General Liability Insurance

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

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

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

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

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

1. The District, its Directors, officers, and employees are Additional Insureds in the policy(ies) as to the work being performed under the contract.
2. The coverage is *Primary and non-contributory* to any other applicable insurance carried by the District.
3. The policy(ies) covers *contractual liability*.
4. The policy(ies) is written on an *occurrence* basis.
5. The policy(ies) covers the District's Property in Consultant's care, custody, and control.
6. The policy(ies) covers *personal injury* (libel, slander, and wrongful entry and eviction) liability.
7. The policy(ies) covers *products and completed operations*.
8. The policy(ies) covers the use of *owned, non-owned*, and hired automobiles.

E. Professional Liability Insurance

VENDOR shall take out and maintain during the life of the Agreement, professional liability insurance (Errors and Omissions) with \$1,000,000.00 limits per occurrence. A deductible may be acceptable upon approval of the DISTRICT. The policy shall provide 30 days advance written notice to DISTRICT for cancellation or reduction in coverage. If professional liability insurance is a claims-made policy, the policy period must be extended to 3 years after the life of this Agreement, including the possible contract extension period.

F. Cyber Liability Insurance

VENDOR shall take out and maintain during the life of the Agreement Cyber Liability Insurance that provides protection from claims which may arise from operations or performance under this Agreement. If VENDOR elects to self-insure (self-fund) any liability exposure during the contract period above \$50,000, CONSULTANT 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. CONSULTANT shall require any subconsultant to provide evidence of liability insurance coverages. The amounts of the insurance coverage shall not be less than \$1,000,000 per Occurrence . The DISTRICT and its Directors, officers, and employees must be additional insureds in the policy(ies) as to the work being performed under this Agreement.

G. Crime Insurance

VENDOR shall take out and maintain during the life of the Agreement, crime liability insurance which includes Fidelity coverage, Employee Dishonesty coverage, and Identity Theft coverage with \$1,000,000.00 limits per occurrence. The policy shall provide 30 days advance written notice to DISTRICT for cancellation or reduction in coverage.

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.

EXHIBIT C

DISTRICT GENERAL REQUIREMENTS

REV. 3/15 GR-1

EXHIBIT C Effective: 1 Apr 15

Supersedes: 1 Apr 88

GENERAL REQUIREMENTS

CONTENTS

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

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

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

REV. 3/15 GR-2

- 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

REV. 3/15 GR-3

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.

REV. 3/15 GR-4

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 preclude 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

REV. 3/15 GR-5

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.

REV. 3/15 GR-6

- 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/wpnodeb.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

REV. 3/15 GR-7

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

REV. 3/15 GR-8

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

REV. 3/15 GR-9

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:

REV. 3/15 GR-10

- 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.

REV. 3/15 GR-11

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,

REV. 3/15 GR-12

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.

REV. 3/15 GR-13

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.

REV. 3/15 GR-14

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

REV. 3/15 GR-15

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.

EXHIBIT D

STANDARD SERVICE AGREEMENT

FOR

WALK-IN PAYMENT PROCESSING SERVICES 2017

This Agreement is by and between the East Bay Municipal Utility District, (“District”), and _____, (“Contractor”), and shall be for a term of three years, with two options to extend for a one-year period, effective as of the date of the last signature below.

District desires to obtain Walk-in Payment Processing services (“the Services”) which are more fully described in Exhibit A to this Agreement and;

Contractor is professionally and legally qualified to provide the Services and is willing to provide them to District.

Now, therefore it is agreed that District retains Contractor to provide the Services, and Contractor accepts such engagement, on the General Requirements specified in this Agreement, the attached Additional Provisions, and the following described exhibits, all of which are incorporated into this Agreement by this reference:

Exhibit A	Scope of Services
Exhibit B	General Requirements
Exhibit C	Insurance
Exhibit H	CEP Forms

The compensation payable to Contractor shall not exceed *dollar amount written out* (\$_____) for the term of this Agreement.

Each party executing this Agreement warrants that he or she has authority to enter into this Agreement on behalf the party for whom he or she signs. This Agreement shall become effective as of the date of the second signature below.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

DISTRICT

CONTRACTOR

By:_____

By:_____

Signature

Name: _____
(Printed)

Title: _____

Date: _____

By: _____
Office of General Counsel Signature

Signature

DIR Registration No. _____
(IF NECESSARY – when project is a
“public work” and subject to prevailing
wage payment)

Name: _____
(Printed)

Title: _____

Date: _____

EXHIBIT E

PRELIMINARY SECURITY INFORMATION GATHERING (PSIG)

Contents

- 1 Preliminary Security Information Gathering (PSIG)
- 1.1 Risk Management
- 1.2 Information Security Policy
- 1.3 Information Security Organization
- 1.4 Physical and Environmental Security
- 1.5 Operational Security
- 1.6 Access Control
- 1.7 Software Development and Maintenance
- 1.8 Incident management
- 1.9 Business Continuity
- 1.10 Regulatory Compliance
- 1.11 Privacy

- 1 Preliminary Security Information Gathering (PSIG)

As a component of the supplemental RFP process, EBMUD will be performing a qualifying evaluation of each of the RFP respondents Information Protection program. Please respond to the following questions, keeping your responses as brief as possible, please limit your responses to no more than five (5) pages in total. If your organization is selected you will have the opportunity to provide more in-depth responses during the formal security review.

- 1.1 Risk Management

Objective: Organizations should create and maintain a continuous process for IT and Infrastructure risk management to identify, quantify, and prioritize risks against defined risk acceptance levels and objectives relevant to the organization.

- 1. Describe your organization's IT Risk Governance
 - 2. Describe your organization's IT Risk Life Cycle

- 1.2 Information Security Policy

Objective: Organizations should provide management direction and support for information security in accordance with business requirements and relevant laws and regulations. They should set a clear policy direction in line with business objectives and demonstrate support for, and commitment to, information security through the issue, acceptance and maintenance of an information security policy across the organization.

- 1. Describe your organization's Information Security Policy
 - 2. Describe how the policy or policy set is reviewed and maintained, include the frequency of review

1.3 Information Security Organization

Objective: Organizations should establish a management framework to control and manage the information security organization. This should include the protection of organizational information through the use of employee confidentiality agreements and the addition of clauses in dependent service provider contracts or agreements.

1. Describe the size and structure of your Information Security department.
2. Does your organization rely on dependent service providers? If so, how is their security vetted by your organization?

1.4 Physical and Environmental Security

Objective: Organizations should take appropriate steps to prevent unauthorized physical access, as well as accidental and intentional damage to the organizations' physical premises, systems and information. Organizations should also take appropriate steps to protect against environmental and systems malfunctions or failures.

1. Please state where your datacenters are located
2. Describe the physical controls in place at your data center(s)
3. Describe the environmental controls in your data center(s)

1.5 Operational Security

Objective: Organizations should maintain documented operating procedures and technological controls to ensure the effective management, operation, integrity and security of their information systems and data.

1. Describe the operational controls in place
2. How does your organization log and monitor system and network activity?
3. Describe your intrusion detection methodology
4. Describe your organization's data backup and restoration process
5. Describe your organization's change control process

1.6 Access Control

Objective: Organizations should ensure sufficient control over access to information, including controlled access to target data and information processing systems and facilities. These controls should be based on security and business requirements, and should follow both industry best practices and internal policies.

1. Describe your organization's access control policy
2. How does your organization handle privilege delegation and separation of duties?
3. How does your organization handle inactive accounts and access revocation?

1.7 Software Development and Maintenance

Objective: Organizations should utilize a comprehensive application security program to help ensure that external high-risk applications are consistent with industry security requirements. This should include full application compliance testing and software development reviews.

1. Describe your Software Development Lifecycle
2. Describe your application vulnerability assessment methodology
3. Describe your application and system patching strategy.
4. What is the frequency of application and system security review?

1.8 Incident management

Organizations' incident response programs should include formal event reporting and escalation procedures that should be clearly communicated throughout the organizations, and should include the active participation of incident response members with clearly defined roles and responsibilities.

1. Describe your incident management program

1.9 Business Continuity

Objective: Organizations should incorporate business continuity considerations into the overall design of their business model to mitigate the risk of service disruptions and the impacts of those within the supply chain. This should include an enterprise-wide, process-oriented approach that considers technology, business operations, testing, and communication strategies that are critical to business continuity planning for the entire business.

1. Describe your Organization's Business Continuity program
2. Has your Organization performed a recent Business Impact Analysis?
3. Does your organization have a current Threat Assessment?
4. How often is your business continuity plan tested?

1.10 Regulatory Compliance

Objective: Organizations should ensure compliance of information systems with the organizational security policies and standards to include checking systems regularly against compliance with security implementation standards and regulatory requirements.

1. How does your organization ensure compliance with internal policies and standards?

2. How do you ensure compliance with Federal, State, and local laws?

1.11 Privacy

Objective: Organizations should establish a management framework to control and manage their privacy program. This should include the overall management of the privacy program within the organization and with all third parties that have access to target privacy data. The privacy program should include: individuals responsible for the creation, oversight and maintenance of the program; all third parties meeting their commitments under the organization's business requirements, privacy applicable law, policy and industry best practices; and the protection and privacy of target privacy data through its life cycle of collection, storage, usage, sharing, transferring, securing, retention and destruction.

1. Describe your organization's Privacy program

EXHIBIT F

WALK-IN PAYMENT FILE FORMAT AND EXAMPLES

FILE FORMAT

Data Element	Data Type	Number of Positions	Value
HEADER –			
Record Type	Character	01	1
Filler	Character	22	Zeroes
Date	Date	06 (yymmdd)	
Time	Numeric	04 (hhmm)	
Filler	Character	01	Zero
Record Size	Numeric	03	094
Filler	Character	03	Zeroes
Origin Name	Character	23 (left justified)	MONEYGRAM APS
Customer Name	Character	23 (left justified)	EAST BAY MUD
Filler	Character	08	Spaces
FOR EACH PAYMENT –			
Record Type	Character	01	6
Filler	Numeric	21	Zeroes
Filler	Character	07	Spaces
Total Amount Paid	Numeric	10 (right justified, zero filled, with an implied decimal point)	
Filler	Character	15	Spaces
Account Number	Numeric	11	
Filler	Character	19	Spaces
Sequential Number	Numeric	10	Record sequence no. for the type 6 records
FOOTER -			
Record Type	Character	01	9
Batch Count	Numeric	06	000001
Filler	Numeric	06	Zeroes
Entry Count	Numeric	08	Number of type 6 records
Filler	Numeric	22	Zeroes
Total Amount Paid	Numeric	12 (right justified, zero filled, with an implied decimal point)	
Filler	Character	39	Spaces

[illegible]