

# EAST BAY MUNICIPAL UTILITY DISTRICT

## REQUEST FOR PROPOSAL (RFP) for Biosolids Handling Services 2022

### ***ADDENDA***

Prospective bidders are responsible for reviewing any published addenda regarding this bid  
at [ebmud.com/business-center/](http://ebmud.com/business-center/)

### ***CONTACT***

**Rebecca Overacre, Associate Civil Engineer**  
(510) 287-1251  
[rebecca.overacre@ebmud.com](mailto:rebecca.overacre@ebmud.com)

### ***RESPONSE DUE***

April 8, 2022  
4:00 p.m. PST

### ***SUBMIT ELECTRONICALLY TO\****

**Rebecca Overacre, EBMUD**  
[rebecca.overacre@ebmud.com](mailto:rebecca.overacre@ebmud.com)

*\*Hardcopy proposals will not be accepted*

# EAST BAY MUNICIPAL UTILITY DISTRICT

RFP

for

Biosolids Handling Services 2022

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**I. STATEMENT OF WORK**

**A. SCOPE SUMMARY**

Under this Agreement, it is required that all labor, equipment, materials, and supervision be furnished by CONTRACTOR to:

1. Receive, haul, and beneficially use biosolids from the East Bay Municipal Utility District (District) Main Wastewater Treatment Plant (MWWTP) at 2020 Wake Avenue, Oakland, California.
2. Receive, haul, and deliver biosolids to a processing facility located within 50 miles of the MWWTP, as directed by the District.

The duration of the contract will be for two years beginning on July 1, 2022, with an option by the District at the District's sole discretion to extend for three additional one-year periods.

For the detailed scope of work, refer to Exhibit F – Scope of Work.

**B. PROPOSER QUALIFICATIONS**

To be considered responsive, the Proposer or the Proposer's direct Subcontractor(s) shall meet the minimum requirements listed in the table below.

<b>Qualifications</b>	<b>Minimum Requirements</b>
Experience <b>with each end-use proposed</b> in an amount equal to or greater than 10,000 wet tons per year.	1 year of successful experience within the last 36 months.
Experience hauling biosolids from a facility where removal is required 24 hours per day, 365 days per year.	1 year of successful experience within the last 36 months.
If proposing land application, experience monitoring the agronomic application of biosolids, checking nutrient and metals loading.	1 year of successful experience within the last 36 months. Contractor must show compliance with agronomic rates.
If applicable to proposed end use, experience with U.S. EPA annual reporting.	1 year of successful experience reporting to U.S. EPA within the last 36 months. Bidder must provide copy of submitted annual EPA 503 report.
All permits required for proposed work.	Possession of all required permits valid for start of contract.

## II. CALENDAR OF EVENTS

<b>EVENT</b>	<b>DATE/LOCATION</b>	
<b>RFP Issued</b>	March 18, 2022	
<b>MANDATORY Pre-Proposal Conference</b>	March 28 @ 10:00am	at: Online email Rebecca Overacre (info above) for link
<b>Response Due</b>	April 8, 2022 by 4:00 p.m.	
<b>Anticipated Contract Start Date</b>	July 1, 2022	

**Note:** All dates are subject to change **by District.**

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.

### A. MANDATORY PRE-PROPOSAL CONFERENCE

A mandatory pre-proposal conference will be held to:

1. Allow the District to discuss the scope of the project.
2. Provide an opportunity for Proposers to ask specific questions about the project and request RFP clarifications.

3. Provide the District with an opportunity to receive feedback regarding the project and RFP.

All questions deemed to be pertinent by the District will be addressed in Addenda following the Pre-Proposal conference.

**\*\*\*In order to be eligible to submit a Proposal on this RFP, a representative from the Proposer's company MUST attend pre-proposal conference. If an RFP response is submitted by a company that was not in attendance at this meeting, its RFP response WILL be rejected. To receive a link to the meeting, email Rebecca Overacre (info above) before the meeting begins.\*\*\***

### **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 proposer 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 proposals have been evaluated.

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 and scored according to the Evaluation Criteria below and scored according to a zero to five-point scale. The scores for all Evaluation Criteria will then be added to arrive at a weighted score for each RFP response. An RFP response with a high weighted total will be ranked higher than one with a lesser-weighted total.

The Evaluation Criteria are as follows:

	<b>Evaluation Criteria</b>
<b>A.</b>	<b>Cost:</b> The relative costs will be computed by dividing the total annual cost of the lowest responsive Proposal by each Proposer's total annual cost. The evaluation may also include a review of: <ol style="list-style-type: none"><li>1. Reasonableness (i.e., does the proposed pricing accurately reflect the Proposer's effort to meet requirements and objectives?; is the proposed cost appropriate to the nature of the products and services to be provided?); and</li><li>2. Cost-effectiveness (i.e., the ability of the District to afford the services and the value gained).</li></ol>
<b>B.</b>	<b>Environmental Benefit:</b> The environmental benefit of proposed end uses and hauling practices will be evaluated. Environmental benefits may include nutrient recovery, agronomic value, reduced carbon footprint, and lower process emissions. Distance to the application site will be factored into the environmental benefit, and credit will be given for use of low emissions vehicles.
<b>C.</b>	<b>Reliability:</b> Reliability will be evaluated through criteria related to operational flexibility, communications, experience, and references. Diversification of end uses and multiple reliable backup options will earn points in this category. Factors affecting ease of operations and communications include (but are not limited to) dispatch capabilities and other features demonstrating responsiveness and adaptability.

	<p>The applicability of the references and the responses provided by the references will be evaluated. Proposals will be evaluated against the RFP specifications and the following questions:</p> <ul style="list-style-type: none"> <li>-Does the Proposer have experience on similar projects beyond the minimum requirements?</li> <li>-Has the Proposer demonstrated compliance with regulatory reporting?</li> <li>-Has the Proposer demonstrated best management practices, including but not limited to those regarding environmental protection, safety, training, and public outreach?</li> </ul>
<p><b>D.</b></p>	<p><b>Contract Equity Program:</b>  Proposer shall be eligible for SBE or DVBE 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. Qualified DVBEs and/or SBEs will receive an additional 5 points to their total score.</p>

C. ACCEPTABLE END USES

As noted in District Policy 8.02, provided in Exhibit G, it is the policy of the District to promote the beneficial and cost-effective use of biosolids, in accordance with the District’s environmental principles, while complying with all applicable federal, state, county, and local laws, rules, and regulations. Beneficial uses include but are not limited to land application, feedstock for compost, and conversion to liquid fertilizer or biochar. Based on Senate Bill 1383, landfill alternative daily cover is no longer considered a beneficial use. Proposed end uses should therefore not include landfill disposal or landfill alternative daily cover as a planned end use.

D. BIDDING

The District requests a price proposal for one or more of the following bid schedules. A proposer may propose on any or all of these schedules. Each plan may include multiple end uses within a Schedule. Schedules 2A and 2B pertain to only dry or wet weather quantities.

<b>Bid Form Schedule No.</b>	<b>Description</b>	<b>District Annual Biosolids (%)<sup>1</sup></b>
SCHEDULE 1	Year-round hauling and end use	90%
	Year-round hauling to TBD facility within 50 miles of MWWTP	10%
SCHEDULE 2A	Dry season hauling and end use, approximately during the period from April 15 to October 14.	45%
	Dry season hauling to TBD facility within 50 miles of MWWTP	5%
SCHEDULE 2B	Wet season hauling and end use, approximately during the period October 15 to April 14.	45%
	Wet season hauling to TBD facility within 50 miles of MWWTP	5%

<sup>1</sup>All percentages are approximate. No quantities are guaranteed. Additionally, the District reserves the right to divert up to 10% of the annual biosolids produced for pilot projects and/or other uses.

Land application of biosolids has seasonal constraints due to regulatory and practical factors. For this reason, if the District selects from Schedule 2:

- The allocations to Schedule 2A and 2B may not be equal.
- While the duration of each season cannot be predicted, the dry weather season will be approximated for planning purposes as the period from April 15 to October 14. The wet weather season will be approximated for planning purposes as the period from October 15 of one calendar year to April 14 of the following calendar year. Biosolids production at the MWWTP is approximately equivalent during the dry and wet weather seasons.
- Hauling to the TBD facility will be conducted on the same timeline as the end use.

See Exhibit F – Scope of Services for more detail on seasonal transitions.

#### E. PRICING

1. Prices quoted shall be firm for the first three months 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.
5. As described in Exhibit F – Scope of Work, price adjustments will be made on a quarterly basis for changes in the diesel price index and on an annual basis for

changes in Consumer Price Index (CPI-U). These adjustments may be increases or decreases to the base price as determined by the change in the diesel price index or CPI-U relative to the start of contract.

6. Prevailing Wages:

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

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

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

The Contractor shall, as a penalty to the State or the District, forfeit Twenty-Five (\$25.00) Dollars for each calendar day, or portion thereof, for each worker paid less than the stipulated prevailing rates for any work or craft in which such worker is employed under the contract by the Contractor or by any Subcontractor. The difference between such stipulated prevailing wage rates and the amount paid to such worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Contractor. The Contractor shall comply with the provisions of Section 1776 of the Labor Code of the State of California. For all classes of work not specified herein, the minimum wage shall be that specified for general laborer.

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

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

## F. NOTICE OF INTENT TO AWARD AND PROTESTS

At the conclusion of the RFP response evaluation process, all entities who submitted a proposal package will be notified in writing by e-mail with the name of the Proposer being recommended for contract award. The document providing this notification is the Notice of Intent to Award.

Negotiations for a Consulting Services Agreement with a “not to exceed” contract price (for time and expenses) will be scheduled shortly after the Notice of Intent to Award. If an Agreement cannot be achieved, the District will proceed to negotiate with the next highest ranked Proposer.

Protests must be in writing and must be received no later than seven (7) workdays after the District issues the Notice of Intent to Award. 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.

Proposal 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 proposal, 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, hand delivered, or emailed to the Manager of Purchasing, Mailstop 102, 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 workday time limit. Any proposal protest filed with any other District office shall be forwarded immediately to the Manager of Purchasing.

In the event that the protest is denied, the 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 workdays from the date which the protest determination was transmitted by the District, to the protesting party. The appeal shall focus on the points raised in the original protest, and no new points shall be raised in the appeal.

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 proposal 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.

G. INVOICING

1. Following the Districts acceptance of product(s) meeting all specified requirements, and/or the complete and satisfactory performance of services, the District will render payment within thirty (30) days of receipt of a correct invoice.
2. The District will notify the General or Professional Service Provider of any invoice adjustments required.
3. 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.
4. See Exhibit F – Scope of Services for additional invoicing details.

H. BONDS

1. The successful Proposer will be required to post and maintain the following bonds with the District:
  - a. A Performance Bond for 25 percent (25%) of the total annual contract amount
  - b. A Payment Bond for 100 percent (100%) of the total annual contract amount
2. Bond forms are attached to this RFP as Exhibit E – Bond Forms.

#### **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: Rebecca Overacre, Associate Civil Engineer

EBMUD Wastewater Engineering Division

E-Mail: [Rebecca.overacre@ebmud.com](mailto:Rebecca.overacre@ebmud.com)

PHONE: (510) 287-1251

**FOR INFORMATION ON THE CONTRACT EQUITY PROGRAM:**

Attn: Contract Equity Office

PHONE: (510) 287-0114

**AFTER AWARD:**

Attn: Rebecca Overacre, Associate Civil Engineer  
EBMUD Wastewater Engineering Division  
E-Mail: Rebecca.overacre@ebmud.com  
PHONE: (510) 287-1251

**B. SUBMITTAL OF RFP RESPONSE**

1. At this time, no hardcopy proposals will be accepted. Upload your RFP response in pdf format and prior to the bid due date/time RFP submittals, in their entirety, shall be emailed to Rebecca.overacre@ebmud.com. The District's email has limitations on attachment size. Make sure your response is less than 25 megabytes. If the file exceeds the limit, you will need to send multiple emails. Proposers are solely responsible for ensuring timely delivery of the proposals. The District shall not be responsible for any issues related to transfer of files through email. You may call at (510) 287-1251 to check receipt of the proposal.
2. All costs required for the preparation and submission of an RFP response shall be borne by the Proposer.
3. 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.
4. 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.
5. 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.
6. 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, F, or G 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.



# **RFP RESPONSE PACKET**

## **RFP For – Biosolids Handling Services 2022**

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

From: \_\_\_\_\_  
(Official Name of Proposer)

### **RFP RESPONSE PACKET GUIDELINES**

- **SUBMITTAL SHALL CONTAIN THE FOLLOWING:**
  - **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 WHOLE.**
- **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.**
- **PROPOSORS SHALL NOT MODIFY DISTRICT LANGUAGE IN ANY PART OF THIS RFP OR ITS EXHIBITS, NOR SHALL THEY QUALIFY THEIR RFP RESPONSE BY INSERTING THEIR OWN LANGUAGE OR FALSE CLAIMS IN THEIR RESPONSE. ANY EXCEPTIONS AND CLARIFICATIONS MUST BE PLACED IN THE “EXCEPTIONS/ CLARIFICATIONS” PAGE, NOT BURIED IN THE PROPOSAL ITSELF.”.**



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

Addendum #	Date

4. The undersigned hereby certifies to the District that all representations, certifications, and statements made by the Proposer, as set forth in this RFP Response Packet and attachments, are true and correct and are made under penalty of perjury pursuant to the laws of California.
5. The undersigned acknowledges that the Proposer is, and will be, in good standing in the State of California, with all the necessary licenses, permits, certifications, approvals, and authorizations necessary to perform all obligations in connection with this RFP and associated RFP documents.
6. It is the responsibility of each Proposer to be familiar with all of the specifications, terms, and conditions and, if applicable, the site condition. By the submission of an RFP response, the Proposer certifies that if awarded a contract it will make no claim against the District based upon ignorance of conditions or misunderstanding of the specifications.
7. Patent indemnity: General or Professional Service Providers who do business with the District shall hold the District, its Directors, officers, agents, and employees harmless from liability of any nature or kind, including cost and expenses, for infringement or use of any patent, copyright or other proprietary right, secret process, patented or unpatented invention, article, or appliance furnished or used in connection with the contract or purchase order.
8. Insurance certificates are not required at the time of submission. However, by signing Exhibit A – RFP Response Packet, the Proposer agrees to meet the minimum insurance requirements stated in the RFP. This documentation must be provided to the District prior to execution of an agreement by the District and shall include an insurance certificate which meets the minimum insurance requirements, as stated in the RFP.

9. The undersigned acknowledges that RFP responses, in whole or in part, are NOT to be marked confidential or proprietary. The District may refuse to consider any RFP response or part thereof so marked. RFP responses submitted in response to this RFP may be subject to public disclosure. The District shall not be liable in any way for disclosure of any such records.
10. The undersigned Proposer hereby submits this RFP response and binds itself to the District. The RFP, subsequent Addenda, Proposers Response Packet, and any attachments, shall be used to form the basis of a Contract, which once executed shall take precedence.
11. The undersigned acknowledges **ONE** of the following (please check only one box)\*:
- Proposer is not an SBE nor a DVBE 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/DVBE 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\_\_\_\_\_

## **BID FORM**

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

No alterations or changes of any kind to the Bid 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.

**RFP - BIOSOLIDS HANDLING SERVICES 2022  
BID FORM**

Name of Bidder: \_\_\_\_\_

SCHEDULE I: Furnish all applicable labor, materials, equipment, land, permits, fees, and other appurtenances of services to receive, haul, and beneficially use approximately 68,400 wet tons of biosolids annually and to receive, haul, and deliver to a facility within 50 miles of the MWWTP approximately 7,600 wet tons of biosolids annually. Refer to Section III D for clarification. Schedule 1 may not be awarded.

End use (Description, Season, Location)	Tons Allocated (tons)	% Price Subject to Diesel Price Index <sup>1</sup> (Quarterly adjustments)	% Price Subject to CPI-U Index <sup>1</sup> (Annual adjustments)	Base Price (\$ per wet ton)
		%	%	\$
Hauling only to TBD facility within 50 miles	7,600	%	%	\$
<b>Total Estimated Contract</b>	<b>76,000 wet tons</b>	N/A	N/A	\$

<sup>1</sup>The sum of the percent subject to Diesel Price Index and percent subject to CPI-U Index must not exceed 100%.

SCHEDULE 2A: In the dry weather season only, furnish all applicable labor, materials, equipment, land, permits, fees, and other appurtenances of services to receive, haul, and beneficially use approximately 34,200 wet tons of biosolids annually and to receive, haul, and deliver to a facility within 50 miles of the MWWTP approximately 3,800 wet tons of biosolids annually. Refer to Section III D for clarification. Schedule 2A may not be awarded.

End use (Description, Season, Location)	Tons Allocated (tons)	% Price Subject to Diesel Price Index <sup>1</sup> (Quarterly adjustments)	% Price Subject to CPI-U Index <sup>1</sup> (Annual adjustments)	Base Price (\$ per wet ton)
		%	%	\$
Hauling only to TBD facility within 50 miles	3,800	%	%	\$
<b>Total Estimated Contract</b>	<b>38,000 wet tons</b>	N/A	N/A	\$

<sup>1</sup>The sum of percent subject to Diesel Price Index and percent subject to CPI-U Index must not exceed 100%.

SCHEDULE 2B: In the wet weather season only, furnish all applicable labor, materials, equipment, land, permits, fees, and other appurtenances of services to receive, haul, and beneficially use approximately 34,200 wet tons of biosolids annually and to receive, haul, and deliver to a facility within 50 miles of the MWWTP approximately 3,800 wet tons of biosolids annually. Refer to Section III D for clarification. Schedule 2B may not be awarded.

End use (Description, Season, Location)	Tons Allocated (tons)	% Price Subject to Diesel Price Index <sup>1</sup> (Quarterly adjustments)	% Price Subject to CPI-U Index <sup>1</sup> (Annual adjustments)	Base Price (\$ per wet ton)
		%	%	\$
Hauling only to TBD facility within 50 miles	3,800	%	%	\$
<b>Total Estimated Contract</b>	<b>38,000 wet tons</b>	N/A	N/A	\$

<sup>1</sup>The sum of percent subject to Diesel Price Index and percent subject to CPI-U Index must not exceed 100%.

## 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. **Letter of Transmittal:** RFP response shall include a description of the Proposer’s capabilities and approach in providing its services to the District. The letter shall state the relative responsibilities of the Prime contractor and Sub-contractors. This synopsis should not exceed three (3) pages in length and should be easily understood.
2. **Description of the Proposed Hauling Equipment/System:** RFP response shall include a description of the proposed hauling 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.
3. **Description of the Proposed End Use(s):** RFP response shall include a description of the proposed biosolids end use(s). The description shall include information on the practice as well as the facility and location. The description must: (1) specify how the end use(s) will meet or exceed the requirements of the District; (2) state the quantities planned for each end use; (3) explain any special resources or approaches that make the end use(s) particularly advantageous to the District; and (4) identify any limitations or restrictions of the end use(s) that the District should be aware of in evaluating its RFP response to this RFP.
4. **Completed Bid Form:** RFP response shall include one or more bids prepared in accordance with instructions in this RFP and submitted in the format given.
5. **Sustainability Statement:** Contractors shall submit a statement regarding any sustainable, environmental or socially responsible initiatives or practices that they or their suppliers engage in. This information can be in relation to the specific services or work products solicited via this RFP, or in relation to the manufacture, delivery, or business practices of your firm.
6. **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.

7. **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.**

8. **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 – Biosolids Handling Services 2022

Proposer Name: \_\_\_\_\_

**Proposer must provide a minimum of 3 references.**

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

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

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

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

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





## 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 proposal the appropriate forms.

The CEP guidelines and forms can 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

PROPOSER shall take out and maintain during the life of the Agreement all insurance required and PROPOSER shall not commence work until such insurance has been approved by DISTRICT. The proof of insurance shall be on forms provided by DISTRICT directly following these Insurance Requirements.

PROPOSERS are not required to submit completed insurance verification documents with their bid but will be required to submit them upon notification of award. By signing Exhibit A – RFP Response Packet, the Proposer agrees to meet the minimum insurance requirements stated in the RFP.

### I. The following provisions applicable to all required insurance:

A. Prior to the beginning of and throughout the duration of Services, and for any additional period of time as specified below, CONTRACTOR shall, at its sole cost and expense, maintain insurance in conformance with the requirements set forth below.

B. CONTRACTOR shall provide Verification of Insurance as required by this Agreement by providing the completed Verification of Insurance as requested below signing and submitting this Exhibit B to the DISTRICT. The Exhibit B may be signed by an officer of the CONTRACTOR (Agent) or by the Insurance Broker for the CONTRACTOR. CONTRACTOR shall update Exhibit B throughout the specified term of the insurance required by this Agreement by resubmitting the completed Exhibit B prior to the expiration date of any of the required insurance. The updated Exhibit B shall become a part of the Agreement but shall not require a change order to the Agreement. The Notice to Proceed shall not be issued, and CONTRACTOR shall not commence Services until such insurance has been accepted by the DISTRICT.

C. CONTRACTOR shall carry and maintain the minimum insurance requirements as defined in this Agreement. CONTRACTOR shall require any subcontractor to carry and maintain the minimum insurance required in this Agreement to the extent they apply to the scope of the services to be performed by subcontractor.

D. Acceptance of verification of Insurance by the DISTRICT shall not relieve CONTRACTOR of any of the insurance requirements, nor decrease liability of CONTRACTOR.

E. The insurance required hereunder may be obtained by a combination of primary, excess and/or umbrella insurance, and all coverage shall be at least as broad as the requirements listed in this Agreement.

F. Any deductibles, self-insurance, or self-insured retentions (SIRs) applicable to the required insurance coverage must be declared to and accepted by the DISTRICT.

G. At the option and request of the DISTRICT, CONTRACTOR shall provide documentation of its financial ability to pay the deductible, self-insurance, or SIR.

H. Any policies with a SIR shall provide that any SIR may be satisfied, in whole or in part, by the DISTRICT or the additional insured at its sole and absolute discretion.

I. Unless otherwise accepted by the DISTRICT, all required insurance must be placed with insurers with a current A.M. Best's rating of no less than A- V.

J. CONTRACTOR shall defend the DISTRICT and pay any damages as a result of failure to provide the waiver of subrogation from the insurance carrier.

K. For any coverage that is provided on a claims-made coverage form (which type of form is permitted only where specified) the retroactive date must be shown and must be before the date of this Agreement, and before the beginning of any Services related to this Agreement.

L. Insurance must be maintained, and updated Verification of Insurance be provided to the DISTRICT before the expiration of insurance by having CONTRACTOR's insurance broker or agent update, sign and return Exhibit B to the DISTRICT's contract manager. For all claims-made policies the updated Verification of Insurance must be provided to the DISTRICT for at least three (3) years after expiration of this Agreement.

M. If claims-made coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of this Agreement or the start of any Services related to this Agreement, CONTRACTOR must purchase an extended reporting period for a minimum of three (3) years after expiration of the Agreement.

N. If requested by the DISTRICT, a copy of the policies' claims reporting requirement must be submitted to the DISTRICT for review.

O. Where additional insured coverage is required, the additional insured coverage shall be "primary and non-contributory," and will not seek contribution from the DISTRICT's insurance or self-insurance.

P. CONTRACTOR agrees to provide immediate Notice to the DISTRICT of any loss or claim against CONTRACTOR arising out of, pertaining to, or in any way relating to this Agreement, or Services performed under this Agreement. The DISTRICT assumes no obligation or liability by such Notice but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve the DISTRICT.

Q. CONTRACTOR agrees, upon request by the DISTRICT, to provide complete, certified copies of any policies and endorsements within 10 days of such request (copies of policies may be redacted to eliminate premium details.)

R. It is CONTRACTOR's responsibility to ensure its compliance with the insurance requirements. Any actual or alleged failure on the part of the DISTRICT to obtain proof of insurance required under this Agreement shall not in any way be construed to be a waiver of any right or remedy of the DISTRICT, in this or any regard.

S. Notice of Cancellation/Non-Renewal/Material Reduction. The insurance requirements hereunder are mandatory, and the DISTRICT may, at its sole and absolute discretion, terminate the services provided by CONTRACTOR, should CONTRACTOR breach its obligations to maintain the required coverage and limits set forth in this Agreement. No coverage required hereunder shall be cancelled, non-renewed or materially reduced in coverage or limits without the DISTRICT being provided at least thirty (30) days prior written notice, other than cancellation for the non-payment of premiums, in which event the DISTRICT shall be provided ten (10) days prior written notice. Replacement of coverage with another policy or insurer, without any lapse in coverage or any reduction of the stated requirements does not require notice beyond submission to the DISTRICT of an updated Verification of Insurance which shall be met by having the CONTRACTOR's insurance broker or agent update, sign and return this EXHIBIT B.

## INSURANCE VERIFICATION DOCUMENTS

### II. Workers' Compensation and Employer's Liability Insurance Coverage

- A. Workers' Compensation insurance including Employer's Liability insurance with minimum limits as follows:
- Coverage A. Statutory Benefits Limits
  - Coverage B. Employer's Liability of not less than:
    - Bodily Injury by accident: \$1,000,000 each accident
    - Bodily Injury by disease: \$1,000,000 each employee
    - Bodily Injury by disease: \$1,000,000 policy limit
- B. CONTRACTOR's insurance shall be primary, and any insurance or self-insurance procured or maintained by the DISTRICT shall not be required to contribute to it.
- C. If there is an onsite exposure of injury to CONTRACTOR, subcontractor, and/or subcontractor's employees under the U.S. Longshore and Harbor Workers' Compensation Act, the Jones Act, or under laws, regulations or statutes applicable to maritime employees, coverage is required for such injuries or claims.
- D. If CONTRACTOR is self-employed, a sole proprietorship or a partnership, with no employees, and is exempt from carrying Workers' Compensation Insurance, CONTRACTOR must return the completed Verification of Insurance confirming that CONTRACTOR has no employees and is exempt from the State of California Workers' Compensation requirements.
- E. If CONTRACTOR is self-insured with respect to Workers' Compensation coverage, CONTRACTOR shall provide to the DISTRICT a Certificate of Consent to Self-Insure from the California Department of Industrial Relations. Such self-insurance shall meet the minimum limit requirements and shall waive subrogation rights in favor of the DISTRICT as stated below in section "F."
- F. Waiver of Subrogation. Workers' Compensation policies, including any applicable excess and umbrella insurance, must contain a waiver of subrogation endorsement providing that CONTRACTOR and each insurer waive any and all rights of recovery by subrogation, or otherwise, against the DISTRICT, its directors, board, and committee members, officers, officials, employees, agents, and volunteers. CONTRACTOR shall defend and pay any and all damages, fees, and costs, of any kind arising out of, pertaining to, or in any way relating to CONTRACTOR's failure to provide waiver of subrogation from the insurance carrier.

Verification of Workers' Compensation and Employer's Liability Insurance Coverage

By checking the box and signing below, I hereby verify that the CONTRACTOR is exempt from the State of California's requirement to carry workers' compensation insurance.

As the CONTRACTOR's insurance broker/agent, I hereby verify that I have reviewed and confirmed that the CONTRACTOR carries workers' compensation insurance as required by this Agreement, including the relevant provisions applicable to all required insurance.

Self-Insured Retention Amount: \$ \_\_\_\_\_

Policy Limit: \$ \_\_\_\_\_

Policy Number: \_\_\_\_\_

Policy Period: from: \_\_\_\_\_ to: \_\_\_\_\_

Insurance Carrier Name: \_\_\_\_\_

Insurance Broker or Agent: Print Name: \_\_\_\_\_

Insurance Broker or Agent's Signature: \_\_\_\_\_

### III. Commercial General Liability Insurance (“CGL”) Coverage

- A. CONTRACTOR’s insurance shall be primary, and any insurance or self-insurance procured or maintained by the DISTRICT shall not be required to contribute to it.
- B. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policies or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the CONTRACTOR.
- C. Minimum Requirements. CGL insurance with minimum per occurrence and aggregate limits as follows:
- |                                    |  |
|------------------------------------|--|
| Bodily Injury and Property Damage  | \$2,000,000 per occurrence & aggregate |
| Personal Injury/Advertising Injury | \$2,000,000 per occurrence & aggregate |
| Products/Completed Operations      | \$2,000,000 per occurrence & aggregate |
- D. Coverage must be on an occurrence basis.
- E. Coverage for Products, and Completed Operations, and Ongoing Operations must be included in the insurance policies and shall not contain any “prior work” coverage limitation or exclusion applicable to any Services performed by CONTRACTOR and/or subcontractor under this Agreement.
- F. Insurance policies and Additional Insured Endorsement(s) Coverage shall be included for all premises and operations in any way related to this Agreement.
- G. There will be no exclusion for explosions, collapse, or underground liability (XCU).
- H. Insurance policies and Additional Insured Endorsement(s) shall not exclude liability and damages to work arising out of, pertaining to, or in any way relating to services performed by Subcontractor on CONTRACTOR’s behalf.
- I. Contractual liability coverage shall be included and shall not limit, by any modification or endorsement, coverage for liabilities assumed by CONTRACTOR under this Agreement as an “insured contract.”
- J. Waiver of Subrogation. The policy shall be endorsed to include a Waiver of Subrogation ensuring that the CONTRACTOR and its insurer(s) waive any rights of recovery by subrogation, or otherwise, against the DISTRICT, its directors, board, and committee members, officers, officials, agents, volunteers, and employees. CONTRACTOR shall defend and pay any and all damages, fees, and costs, of any kind, arising out of, pertaining to, or in any way resulting from CONTRACTOR’s failure to provide the waiver of subrogation from its insurance carrier(s).
- K. “Independent CONTRACTOR’s Liability” shall not limit coverage for liability and/or damages arising out of, pertaining to, or in any way resulting from Services provided under this Agreement.

To the fullest extent permitted by law, the DISTRICT, its directors, board, and committee members, officers, officials, employees, agents, and volunteers must be covered as Additional Insureds on a primary and noncontributory basis on all underlying, excess and umbrella policies that shall be evidenced in each case by an endorsement. The Additional Insureds must be covered for liability arising in whole, or in part, from any premises, Products, Ongoing Operations, and Completed Operations by or on behalf of CONTRACTOR, in any way related to Services performed under this Agreement.

L. A severability of interest provision must apply for all the Additional Insureds, ensuring that CONTRACTOR's insurance shall apply separately to each insured against whom a claim is made, or suit is brought, except with respect to the policies' limit(s).

**Verification of Commercial General Liability (CGL) Insurance Coverage**

**As the CONTRACTOR'S insurance broker/agent, I hereby verify that I have reviewed and confirmed that the CONTRACTOR carries Commercial General Liability insurance, as required by this Agreement, including the relevant provisions applicable to all required insurance:**

**Self-Insured: Amount: \$** \_\_\_\_\_

**Policy Limit: Per Occurrence: \$** \_\_\_\_\_ **Aggregate: \$** \_\_\_\_\_

**Policy Number:** \_\_\_\_\_

**Policy Period: from:** \_\_\_\_\_ **to:** \_\_\_\_\_

**Insurance Carrier Name:** \_\_\_\_\_

**Insurance Broker or Agent: Print Name:** \_\_\_\_\_

**Insurance Broker or Agent's Signature:** \_\_\_\_\_

#### **IV. Business Auto Liability Insurance Coverage**

CONTRACTOR's insurance shall be primary, and any insurance or self-insurance procured or maintained by the DISTRICT shall not be required to contribute to it.

A. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policies or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the CONTRACTOR.

B. Minimum Requirements. Auto insurance with minimum coverage and limits as follows:

Each Occurrence Limit (per accident) and in the Aggregate:	\$3,000,000
Bodily Injury and Property Damage:	\$3,000,000

C. Coverage must include either "owned, non-owned, and hired" autos or "any" automobile

This provision ensures the policy covers losses arising out of use of company-owned vehicles ("owned autos"), employee's personal autos ("non-owned autos" meaning not owned by company/insured) or autos that are rented or leased ("hired autos").

D. If CONTRACTOR is transporting hazardous materials or contaminants, evidence of the Motor Carrier Act Endorsement-hazardous materials clean-up (MCS-90, or its equivalent) must be provided.

E. If CONTRACTOR's Scope of Services under this Agreement exposes a potential pollution liability risk related to transport of potential pollutants, seepage, release, escape or discharge of any nature (threatened or actual) of pollutants into the environment arising out of, pertaining to, or in any way related to CONTRACTOR's and/or Subcontractor's performance under this Agreement, then Auto Liability Insurance policies must be endorsed to include Transportation Pollution Liability insurance. Alternatively, coverage may be provided under the CONTRACTOR's Pollution Liability Policies if such policy has no exclusions that would restrict coverage under this Agreement. Coverage shall also include leakage of fuel or other "pollutants" needed for the normal functioning of covered autos.

F. To the fullest extent permitted by law, the DISTRICT, its directors, board, and committee members, officers, officials, employees, agents, and volunteers must be covered as Additional Insureds on a primary and noncontributory basis on all underlying and excess and umbrella policies. The Additional Insureds must be covered for liability arising in whole, or in part, from any premises, Products, Ongoing Operations, and Completed Operations by or on behalf of CONTRACTOR, in any way related to Services performed under this Agreement.

G. A severability of interest provision must apply for all the Additional Insureds, ensuring that CONTRACTOR's insurance shall apply separately to each insured against whom a claim is made, or suit is brought, except with respect to the insurer's limits of liability.

Verification of Business Auto Liability Insurance Coverage

As the CONTRACTOR'S insurance broker/agent, I hereby verify that I have reviewed and confirmed that the CONTRACTOR carries Business Automobile Liability insurance, as required by this Agreement, including the relevant provisions applicable to all required insurance:

Self-Insured: Amount: \$ \_\_\_\_\_

Policy Limit: Per Accident/Occurrence \$ \_\_\_\_\_ Aggregate: \$ \_\_\_\_\_

Policy Number: \_\_\_\_\_

Policy Period: from: \_\_\_\_\_ to: \_\_\_\_\_

Insurance Carrier Name: \_\_\_\_\_

Insurance Broker or Agent: Print Name: \_\_\_\_\_

Insurance Broker or Agent's Signature: \_\_\_\_\_

## VI. Pollution Liability Insurance Coverage

A. CONTRACTOR's insurance shall be primary, and any insurance or self-insurance procured or maintained by the DISTRICT shall not be required to contribute to it.

B. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policies or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the CONTRACTOR.

C. Minimum Requirements: Pollution Liability Insurance with minimum limits, as follows:

Each Claim or Occurrence Limit:	\$2,000,000;
Aggregate Limit:	\$2,000,000.

D. Coverage must be included for bodily injury and property damage, including coverage for loss of use and/or diminution in property value, and for clean-up costs arising out of, pertaining to, or in any way related to the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of contaminants or pollutants, arising out of, pertaining to, or in any way resulting from any Services performed by CONTRACTOR under this Agreement; including any transportation of hazardous wastes, hazardous materials, or contaminants.

E. If Coverage is written on a claims-made form, the following shall apply:

1. The retroactive date must be shown and must be before the date of the Agreement or the beginning of the Services.
2. Insurance must be maintained, and evidence of insurance must be provided for a minimum of three (3) years after completion of the Services.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Agreement, CONTRACTOR must purchase an extended period of coverage for a minimum of three (3) years after completion of the Services.

F. Insurance shall include prior acts coverage sufficient to cover the services under this Agreement.

Verification of Pollution Liability Insurance Coverage

As the CONTRACTOR'S insurance broker/agent, I hereby verify that I have reviewed and confirmed that the CONTRACTOR carries Pollution Liability insurance, as required by this Agreement, including the relevant provisions applicable to all required insurance.

Self-Insured: Amount: \$ \_\_\_\_\_

Policy Limit: Per Claim \$ \_\_\_\_\_ Aggregate: \$ \_\_\_\_\_

Policy Number: \_\_\_\_\_

Policy Period: from: \_\_\_\_\_ to: \_\_\_\_\_

Insurance Carrier Name: \_\_\_\_\_

Insurance Broker or Agent: Print Name: \_\_\_\_\_

Insurance Broker or Agent's Signature: \_\_\_\_\_

## **VII. Excess and/or Umbrella Liability Insurance Coverage**

A. CONTRACTOR's insurance shall be primary and any insurance or self-insurance procured or maintained by the DISTRICT shall not be required to contribute to it.

B. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policies or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the CONTRACTOR.

C. Minimum Requirements: It is expressly understood by the parties that CONTRACTOR's Excess and/or Umbrella Liability policies shall, at minimum, comply with all insurance requirements set forth within this Agreement.

1. Coverage for Products, Completed Operations, and Ongoing Operations must be included in the insurance policies and shall not contain any "prior work" coverage limitation or exclusion applicable to any Services performed under this Agreement and, if it is a claims-made policy, it must be maintained for a minimum of three (3) years following final completion of the Services.

2. Coverage shall be included for all premises and operations in any way related to this Agreement.

3. There will be no exclusion for explosions, collapse, or underground damage (XCU).

4. Insurance policies and Additional Insured Endorsements shall not exclude coverage for liability and damages from services performed by Subcontractor on CONTRACTOR's behalf.

5. Contractual liability coverage shall be included and shall not limit, by any modification or endorsement, coverage for liabilities assumed by CONTRACTOR under this Agreement as an "insured contract."

6. "Independent CONTRACTOR's Liability" shall not limit coverage for liability and/or damage arising out of, pertaining to, or in any way related to Services provided under this Agreement.

7. To the fullest extent permitted by law, the DISTRICT, its directors, officers, officials, agents, volunteers, and employees must be covered as Additional Insureds on a primary and noncontributory basis on all excess and umbrella policies. The Additional Insureds must be covered for liability arising in whole or in part from any premises, Products, Ongoing Operations, and Completed Operations by or on behalf of CONTRACTOR, in any way related to Services performed under this Agreement.

8. A severability of interest provision must apply for all the Additional Insureds, ensuring that the CONTRACTOR's insurance shall apply separately to each insured against whom a claim is made or

suit is brought, except with respect to the policy's limits.

9. CONTRACTOR and its excess and/or umbrella Liability insurance coverage must waive any rights of subrogation against the DISTRICT, its directors, officers, officials, employees, agents, and volunteers, and CONTRACTOR shall defend and pay any damages as a result of failure to provide the waiver of subrogation from the insurance carrier(s).

D. CONTRACTOR shall defend and pay any damages as a result of failure to provide the waiver of subrogation from the insurance carrier(s).

**Verification of Excess and/or Umbrella Liability Insurance Coverage**

**As the CONTRACTOR'S insurance broker/agent, I hereby verify that I have reviewed and confirmed that the CONTRACTOR carries Excess and/or Umbrella Liability insurance, as required by this Agreement, including the relevant provisions applicable to all required insurance.**

**Self-Insured: Amount: \$** \_\_\_\_\_

**Policy Number: Per Claim \$** \_\_\_\_\_ **Aggregate: \$** \_\_\_\_\_

**Policy Number:** \_\_\_\_\_

**Policy Period: from:** \_\_\_\_\_ **to:** \_\_\_\_\_

**Insurance Carrier Name:** \_\_\_\_\_

**Insurance Broker or Agent: Print Name:** \_\_\_\_\_

**Insurance Broker or Agent's Signature:** \_\_\_\_\_

**EXHIBIT C**  
**GENERAL REQUIREMENTS**

# EXHIBIT C

## GENERAL REQUIREMENTS

Effective: June 9, 2021  
Supersedes: September 1, 2021

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#### 1. DEFINITIONS

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

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

Change Order is a Change Order signed by the District. An executed Change Order is a Change Order signed by both the District and the Contractor.

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

## 2. BOND

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

### **3. CONTRACTOR'S FINANCIAL OBLIGATION**

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

### **4. SAMPLES OR SPECIMENS**

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

### **5. MATERIAL AND WORKMANSHIP**

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

**6. DEFECTIVE WORK**

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

**7. WARRANTY**

Contractor expressly warrants that all goods furnished will conform strictly with the specifications and requirements contained herein and with all approved submittals, samples and/or models and information contained or referenced therein, all affirmations of fact or promises, and will be new, of merchantable quality, free from defects in materials and workmanship, including but not limited to leaks, breaks, penetrations, imperfections, corrosion, deterioration, or other kinds of product deficiencies. Contractor expressly warrants that all goods to be furnished will be fit and sufficient for the purpose(s) intended. Contractor expressly warrants that all goods shall be delivered free from any security interest, lien or encumbrance of any kind, and free from any claim of infringement, copyright or other intellectual property violation, or other violation of laws, statutes, regulations, ordinances, rules, treaties, import restrictions, embargoes or other legal requirements. Contractor guarantees all products and services against faulty or inadequate design, manufacture, negligent or improper transport, handling, assembly, installation or testing, and further guaranties that there shall be strict compliance with all manufacturer guidelines, recommendations, and requirements, and that Contractor guaranties that it will conform to all requirements necessary to keep all manufacturer warranties and guarantees in full force and effect. These warranties and guarantees are inclusive of all parts, labor and equipment necessary to achieve strict conformance, and shall take precedence over any conflicting warranty or guarantee. These warranties and guaranties shall not be affected, limited, discharged or waived by any examination, inspection, delivery, acceptance, payment, course of dealing, course of performance, usage of trade, or termination for any reason and to any extent. In the absence of any conflicting language as to duration, which conflicting language will take precedence as being more specific, Contractor's aforesaid warranties and guarantees shall be in full force and effect for a period of one year from the date of acceptance by the District, but shall continue in full force and effect following notice from District of any warranty or guarantee issue, until such issue has been fully resolved to the satisfaction of District.

**8. NOT USED**

**9. SAFETY AND ACCIDENT PREVENTION**

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

**10. CHARACTER OF WORKFORCE**

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

## **11. PREVAILING WAGES & DIR REGISTRATION**

- a. Please see [www.dir.ca.gov](http://www.dir.ca.gov) for further information regarding the below.
- b. All Contractors and Subcontractors of any tier bidding on, or offering to perform 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 to 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](http://www.dir.ca.gov).
- e. The holidays upon which such rates shall be paid shall be all holidays recognized in the collective bargaining agreement applicable to the particular craft, classification, or type of worker employed on the Work.
- f. The Contractor shall post a copy of the general prevailing rate of per diem wages at the jobsite pursuant to Section 1773.2 of the Labor Code.
- g. Pursuant to Section 1774 of the Labor Code, the Contractor and any of its Subcontractors shall not pay less than the specified prevailing rate of wages to all workers employed in the execution of the contract.
- h. As set forth with more specificity in Section 1773.1 of the Labor Code, "per diem" wages include employer payments for health and welfare, pension, vacation, travel, subsistence and, in certain instances, apprenticeship or other training programs, and shall be paid at the rate and in the amount spelled out in the pertinent prevailing wage determinations issued by the Director of Industrial Relations.
- i. The Contractor shall, as a penalty to the State or the District, forfeit not more than the maximum set forth in Section 1775 of the Labor Code for each calendar day, or portion thereof, for each worker paid less than the prevailing rates for the work or craft in which the worker is employed under the contract by the Contractor or by any Subcontractor under him. The difference between the prevailing wage rates and the amount paid to

each worker for each calendar day or portion thereof for which such worker was paid less than the stipulated prevailing wage rate shall be paid to such worker by the Contractor.

- j. The specified wage rates are minimum rates only and the District will not consider and shall not be liable for any claims for additional compensation made by the Contractor because of its payment of any wage rate in excess of the general prevailing rates. All disputes in regard to the payment of wages in excess of those specified herein shall be adjusted by the Contractor at its own expense.
- k. General prevailing wage determinations have expiration dates with either a single asterisk or a double asterisk. Pursuant to California Code of Regulations, Title 8, Section 16204, the single asterisk means that the general prevailing wage determination shall be in effect for the specified contract duration. The double asterisk means that the predetermined wage modification shall be paid after the expiration date. No adjustment in the Contract Sum will be made for the Contractor's payment of these predetermined wage modifications.

## **12. PAYROLL RECORDS & ELECTRONIC SUBMISSION**

If prevailing wages apply, Contractor and each Subcontractor, as appropriate, shall comply with the following:

- a. Contractor and each Subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed in connection with the Work. The payroll records shall be certified and shall be available for inspection in accordance with the provisions of Section 1776 of the Labor Code. Certified payroll records shall be on the forms provided by the DIR or contain the same information required on the Department's form.
- b. The Contractor shall submit for each week in which any contract Work is performed a copy of all payroll records to the Project Manager. The Contractor shall be responsible for submission of copies of payroll records of all Subcontractors.
- c. The Contractor or Subcontractor shall certify the payroll records as shown on the DIR form. In addition, the records shall be accompanied by a statement signed by the Contractor or Subcontractor certifying that the classifications truly reflect the Work performed and that the wage rates are not less than those required to be paid.
- d. For public works projects awarded on or after April 1, 2015, or that are still ongoing after April 1, 2016, no matter when awarded, each Contractor and Subcontractor shall furnish the certified payroll related records as more specifically described above and in Labor Code section 1776 directly to the Labor Commissioner (see LC § 1771.4). These records shall be provided to the Labor Commissioner at least monthly or more frequently if required by the terms of the Contract. For exception on projects covered by collective bargaining agreements like a PLA, please see Labor Code section 1771.4.

- e. In the event of noncompliance with the requirements of Section 1776 of the Labor Code, the Contractor shall have 10 days in which to comply subsequent to receipt of written notice specifying in what respects such Contractor must comply with said Section. Should noncompliance still be evident after such 10-day period, the Contractor shall, as a penalty to the State or the District, forfeit the amount set forth in Section 1776 of the Labor Code for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payments then due.
- f. The Contractor and every Subcontractor shall post at the workplace and comply with all required wage related workplace postings. Copies of the required postings may be downloaded or ordered electronically from the Department of Industrial Relations website at <http://www.dir.ca.gov/wpnodb.html>.

### **13. HOURS OF LABOR**

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

- a. Eight hours of labor constitutes a legal day's Work under the contract.
- b. The time of service of any worker employed upon the work shall be limited and restricted to eight hours during any one calendar day, and forty hours during any one calendar week except as provided in Article 13.iv below.
- c. The Contractor shall, as a penalty to the State or the District, forfeit the amount set forth in Section 1813 of the Labor Code for each worker employed in the execution of the contract by the Contractor or by any Subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week in violation of this Article and the provisions of Labor Code, Sections 1810, et seq.
- d. Work performed by employees of the Contractor in excess of eight hours per day, and forty hours during any one calendar week, shall be permitted upon compensation for all hours worked in excess of eight hours per day at not less than one and one-half times the basic rate of pay.
- e. The Contractor and every Subcontractor shall keep an accurate record showing the name of and the actual hours worked each calendar day and each calendar week by each worker employed by him in connection with the Work; the record shall be kept open at all reasonable hours to the inspection of the District and to the Division of Labor Standards Enforcement of the State of California.

### **14. EMPLOYMENT OF APPRENTICES**

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

## 15. CHANGES

- a. Changes in the Work can only be made in writing signed by an authorized employee of the District. If the change causes an increase or decrease in the contract sum, or a change in the time for performance under the Contract, an adjustment may be made as determined by the Project Manager.
- b. The District reserves the right to make changes in the design of materials, equipment, or machinery, to make alterations or additions to or deviations or subtractions from the Contract and any specifications and drawings, to increase or decrease the required quantity of any item or portion of the Work or to omit any item or portion of the Work, as may be deemed by the Project Manager to be necessary or advisable and to order such extra work as may be determined by the Project Manager to be required for the proper execution and completion of the whole Work contemplated. Any such changes will be ordered in writing by the Project Manager. The determination of the Project Manager on all questions relating to changes, including extra work, shall be conclusive and binding.
- c. Prior to issuing an amendment or change to the Contract, the Project Manager may request that the Contractor submit a proposal covering the changes. Within 10 business days of receiving the request, the Contractor shall submit its proposal to the Project Manager of all costs associated with the proposed amendment or change and any request for an extension of Contract time. Contractor's proposal shall include detailed estimates with cost breakdowns, including labor, material, equipment, overhead, and profit. Labor shall be broken down into hours and rate per hour. If applicable, the proposal shall include a breakdown for off-site labor (including factory labor, engineering, etc.). The Contractor's proposal shall include an analysis of schedule impact when the Contractor is requesting an adjustment in contract time. The Contractor shall be responsible for any delay associated with its failure to submit its change proposal within the time specified. If the Project Manager decides not to issue an amendment or change after requesting a proposal from the Contractor, the Contractor will be notified in writing. The Contractor is not entitled to reimbursement for Change Order preparation costs if the Contractor's proposal is not accepted by the Project Manager.
- d. If the Contractor agrees with the terms and conditions of the approved Change Order, the Contractor shall indicate its acceptance by signing the original copy and returning it to the Project Manager within 10 Work Days after receipt or with reasonable promptness and in such sequence as to not delay the Work or activities of the District or of separate contractors, whichever is sooner. If notice of any change is required to be given to a surety by the provisions of any bond, the Contractor shall provide notice and the amount of each applicable bond shall be adjusted separately. Payment in

accordance with the terms and conditions set forth in the executed Change Order shall constitute full compensation for all Work included in the Change Order and the District will be released from any and all claims for direct, indirect, and impact expenses and additional time impact resulting from the Work. If the Contractor disagrees with the terms and conditions of the approved Change Order, the Contractor shall indicate specific areas of disagreement and return the approved Change Order to the Project Manager with a detailed written dispute. No payment will be made on the disputed work until the approved Change Order is returned to the Project Manager. However, whether or not the Contractor agrees with the terms and conditions of an approved Change Order, the Contractor shall immediately revise its sequence of operations as required to facilitate timely completion of the changed work and shall proceed with the revised work sequence.

- e. The Project Manager may, after having received a written cost quotation from the Contractor, order the Contractor, in writing, to proceed with the work prior to issuance of an approved Change Order through a change directive. The change directive will authorize the Contractor to proceed with the work subject to the cost quotation submitted by the Contractor. Within five days following receipt of the change directive, the Contractor shall submit a detailed change proposal documenting the amount of compensation. The Project Manager will review the change proposal and, at its option, will either issue an approved Change Order for the work or direct the Contractor to perform the work through Force Account. Until the method of compensation is determined and the approved Change Order is received, the Contractor shall keep full and complete time and material records of the cost of the ordered work and shall permit the Project Manager to have access to such records. An approved Change Order shall supersede any previously issued written change directive covering the same Work.

## **16. EFFECT OF EXTENSIONS OF TIME**

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

## **17. DELAYS**

- a. The Contractor shall take reasonable precautions to foresee and prevent delays to the Work. When the Contractor foresees a delay event, and upon the occurrence of a delay event, the Contractor shall immediately notify the Project Manager of the probability or the actual occurrence of a delay, and its cause. With respect to all delays (compensable, excusable or inexcusable), the Contractor shall reschedule the Work and revise its operations, to the extent possible, to mitigate the effects of the delay. Within 15 days from the beginning of a delay the Contractor shall provide the Project Manager with a detailed written description of the delay, its cause, its impact and the Contractor's mitigation plans. Failure to provide the notification required above waives the Contractor's right to any additional time or compensation resulting from the delay for whatever cause. The Project Manager will investigate the facts and ascertain the extent of the delay, and the Project Manager's findings thereon shall be final and conclusive, except in the case of gross error. An extension of time must be approved by the Project Manager to be effective, but an extension of time, whether with or without consent of

the sureties, shall not release the sureties from their obligations, which shall remain in full force until the discharge of the contract.

- b. For inexcusable delays (delays caused by circumstances within the Contractor's control, the control of its subcontractors or supplies of any tier, or within the scope of the Contractor's contract responsibilities) the Contractor shall not be entitled to an extension of time or additional compensation for any loss, cost, damage, expense or liability resulting directly or indirectly from the inexcusable delay.
- c. For excusable delays (delays to completion of the Work within the time limits set forth in the Contract Documents directly caused by events beyond the control of both the Contractor and the District, which delay is not concurrent with an inexcusable delay and which could not have been avoided by the Contractor through reasonable mitigation measures the Project Manager will grant the Contractor an extension of time in an amount equal to the period of Excusable Delay based on the analysis of schedule impact and delay analysis diagram, which shall be the Contractor's sole and exclusive remedy for such delay. Excusable Delays shall include labor strikes, adverse weather as defined in Article 8.5, and Acts of God.
- d. For compensable delays (delays to completion of the Work within the time limits set forth in the Contract Documents that could not be avoided by Contractor mitigation, caused directly and solely by the District or by causes within the exclusive control of the District, and which were not concurrent with any other type of delay) the Project Manager will grant the Contractor an extension of the time to perform under the Contract and compensation in an amount that represents the Contractor's actual direct costs incurred as a direct result of the compensable delay. The Contractor may recover its direct costs only and may not recover (and waives) all other types of indirect, consequential, special and incidental damages.
- e. For concurrent delays (two or more independent causes of delay directly preventing the Contractor from completing the Work within the time limits set forth in the Contract Documents where the delays occur at the same time during all or a portion of the delay period being considered, and where each of the delays would have caused delay to the

Contractor even in the absence of any of the other delays, and none of the delays could have been avoided by Contractor mitigations) the following rules apply:

- i. One or more of the concurrent delays are excusable or compensable, then the period of concurrent delay will be treated as an excusable delay; and
- ii. All of the concurrent delays are inexcusable, then the period of concurrent delay will be inexcusable.

## **18. TERMINATION**

### **a. Termination by the District for Cause:**

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

8. The Contractor abandons the Work. Abandonment is conclusively presumed when the District requests a written plan to cure a default and the Contractor does not submit the plan within five business days of the District's request.

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9. The Contractor materially fails to meet its obligations in accordance with the Contract Documents.

10. The Contractor is in default of any other material obligation under the Contract Documents.

ii. If any of the above events occur, the District may, in its discretion, require that the Contractor submit a written plan to cure its default, which plan must be provided to the District within 5 business days of the request and must include a realistic, executable plan for curing the noted defaults.

iii. Upon any of the occurrences referred to in Article 18.a.i. above, the District may, at its election and by notice to the Contractor, terminate the Contract in whole or in part; accept the assignment of any or all of the subcontracts; and then complete the Work by any method the District may deem expedient. If requested by the District, the Contractor shall remove any part or all of the Contractor's materials, supplies, equipment, tools, and machinery from the site of the Work within seven days of such request; and, if the Contractor fails to do so, the District may remove or store, and after 90 days sell, any of the same at the Contractor's expense.

iv. No termination or action taken by the District after termination shall prejudice any other rights or remedies of the District provided by law or by the Contract Documents.

v. Conversion: If, after termination for other than convenience, it is determined that the Contractor was not in default or material breach, or that the default or material breach was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for convenience pursuant to Article 18.b. below.

b. Termination by the District for Convenience:

i. The District may, at its option, and for its convenience, terminate the Contract at any time by giving written notice to the Contractor specifying the effective date of termination. Upon such termination, the Contractor agrees to comply with the notice and further agrees to waive any claims

for damages, including loss of anticipated profits, on account of the termination; and, as the sole right and remedy of the Contractor, the District shall pay the Contractor as set forth below.

- ii. Upon receipt of a notice of termination for convenience, the Contractor shall, unless the notice directs otherwise, do the following:
  - 1. Immediately discontinue its performance of the Contract to the extent specified in the notice.
  - 2. Place no further orders or subcontracts for materials, equipment, services, or facilities, except as may be necessary for completion of a portion of the Work that is not discontinued or that is necessary for an orderly cessation of the Work.
  - 3. Promptly cancel, on the most favorable terms reasonably possible, all subcontracts to the extent they relate to the performance of the discontinued portion of the Work.
  - 4. Thereafter, do only such Work as may be necessary to preserve and protect Work already in progress and to protect materials, plants, and equipment in transit to or on the site of performance.
- iii. Upon such termination for convenience, the District will pay to the Contractor the sum of the following:
  - 1. The amount of the contract sum allocable to the portion of the Work properly performed by the Contractor as of the effective date of termination, less sums previously paid to the Contractor.
  - 2. Previously unpaid costs of any items delivered to the project site that were already fabricated for subsequent incorporation into the Work.
  - 3. Any proven losses with respect to materials and equipment directly resulting from the termination.
  - 4. Reasonable demobilization costs.
- iv. The above reimbursement is the sole and exclusive remedy to which the Contractor is entitled in the event the contract is terminated for convenience; and the Contractor expressly waives any other claims, damages, demands, compensation or recovery related to this contract or

project. The Contractor agrees to sign a general release incorporating this waiver.

- c. Effect of Termination: Upon termination, the obligations of the Contract shall continue as to portions of the Work already performed and, subject to the Contractor's obligations under Article 18.b.ii, as to bona fide obligations assumed by the Contractor prior to the date of termination.
  
- d. Force Majeure: If the contract is suspended or terminated by the District because Contractor's performance is prevented or delayed by an event including an irresistible, superhuman cause, or by the act of public enemies of the State of California or of the United States ("Force Majeure"), the Contractor will be paid for Work performed prior to the Force Majeure event at either (i) the unit prices named in the Contract; or (ii) in the event no unit prices are named, a sum equal to the percentage of the total contract amount that matches the percentage of the total contract Work performed prior to the Force Majeure event.

## 19. DAMAGES

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

## 20. ORDER OF PRECEDENCE

- a. In the case of conflicts, errors, or discrepancies in any of the Contract Documents, the order of precedence is as follows. Within the same order of precedence, specific requirements shall take precedence over general requirements.
  - i. Approved Change Orders.
  - ii. Addenda.
  - iii. RFQ or RFP.
  - iv. Referenced Standard Specifications and Drawings.
  - v. Contractor's Response Packet.
  
- b. With reference to drawings:
  - i. Numerical dimensions govern over scaled dimensions.
  - ii. Detailed drawings govern over general drawings.
  - iii. Addenda/Change Order drawings govern over contract drawings.
  - iv. Contract drawings govern over standard drawings.

- v. Notes apply only to the drawing where the notes appear, unless classified as “typical” or intended to apply elsewhere in which case they apply to all drawings where the conditions or circumstance noted occurs.
- vi. Typical details apply to all drawings unless a specific different detail is shown.

## **21. INDEMNIFICATION**

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

## **22. PROHIBITION OF ASSIGNMENT**

The Contractor shall not assign, transfer, or otherwise dispose of any of its rights, duties or obligations under this Contract. This prohibition does not apply to the District. The District retains the right to assign this Contract in whole or in part at any time upon reasonable terms.

## **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. 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.

## **25. 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.

**26. 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.

**27. WAIVER OF RIGHTS**

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

**28. 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 IRAN CONTRACTING ACT CERTIFICATION

Pursuant to Public Contract Code (PCC) § 2204, an Iran Contracting Act Certification is required for solicitations of goods or services of \$1,000,000 or more.

To submit a bid or proposal to East Bay Municipal Utility District (District), you must complete **ONLY ONE** of the following two paragraphs. To complete paragraph 1, check the corresponding box **and** complete the certification for paragraph 1. To complete paragraph 2, check the corresponding box and attach a copy of the written permission from the District.

- 1. We are not on the current list of persons engaged in investment activities in Iran created by the California Department of General Services (“DGS”) pursuant to PCC § 2203(b), and we are not a financial institution extending twenty million dollars (\$20,000,000) or more in credit to another person, for 45 days or more, if that other person will use the credit to provide goods or services in the energy sector in Iran and is identified on the current list of persons engaged in investment activities in Iran created by DGS.

### CERTIFICATION FOR PARAGRAPH 1:

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY, that I am duly authorized to legally bind the proposer/bidder to the clause in paragraph 1. This certification is made under the laws of the State of California.

Firm: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(Signature of Bidder)

Title: \_\_\_\_\_

Signed at: \_\_\_\_\_ County, State of: \_\_\_\_\_

**OR**

- 2. We have received written permission from the District to submit a bid or proposal pursuant to PCC § 2203(c) or (d). *A copy of the written permission from the District is included with our bid or proposal.*

**EXHIBIT E**  
**BOND FORMS**  
**RFP – BIOSOLIDS HANDLING SERVICES 2022**

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



DATE \_\_\_\_\_

# FAITHFUL PERFORMANCE BOND

CONTRACTOR (Name and California address where service may be effected)
SURETY (Name and California address where service may be effected)
AMOUNT OF BOND (Sum in words and figures)
CONTRACT DOCUMENTS (As named in the Contract)

**KNOW ALL PERSONS BY THESE PRESENTS:**

THAT, the contractor named above, hereinafter called the Contractor, as Principal, and the Surety named above, as Surety, are held and firmly bound unto the East Bay Municipal Utility District, hereinafter called the District, in the sum entered above, lawful money of the United States of America, for the payment of which sum well and truly to be made to the District, we, and each of us, bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

The condition of the above obligation is such that whereas the Contractor and the District entered into a Contract of even date herewith, by the terms and conditions of which the Contractor agreed to perform and complete the work, or manufacture, complete, and deliver the material or equipment, set forth in the Contract Documents named in the Contract, all now on file in the office of the Secretary of the District, as will more fully appear by reference to said Contract, which is made a part of this bond;



DATE \_\_\_\_\_

# PAYMENT BOND

CONTRACTOR (Name and California address where service may be effected)

SURETY (Name and California address where service may be effected)

AMOUNT OF BOND (Sum in words and figures)

CONTRACT DOCUMENTS (As named in the Contract)

**KNOW ALL PERSONS BY THESE PRESENTS:**

THAT, WHEREAS, the contractor named above, hereinafter called the Contractor, has this day entered into a Contract with East Bay Municipal Utility District, hereinafter called the District, to perform and complete the work set forth in the Contract Documents named in the Contract, all now on file in the office of the Secretary of the District, as will more fully appear by reference to said Contract, which is made a part hereof; and

WHEREAS, Sections 9550 to 9566 inclusive of the Civil Code of the State of California, and any amendments thereof, require contractors upon public work to file with the body by whom such contract was awarded a good and sufficient bond to secure the claims to which reference is made in said sections, NOW THESE PRESENTS

WITNESSETH: That the Contractor, as Principal, and the Surety named above, as Surety, are held and firmly bound unto any and all materialmen, persons, firms, or corporations furnishing materials, provisions, or other supplies used in, upon, for, or about the performance of the work contracted to be done, and to all persons, firms or corporations renting or hiring implements or machinery for or contributing to the said work to be done and to all persons who perform work or labor of any kind or nature thereon, or in connection therewith, and to all persons who supply both work and materials, in the sum entered on the first page hereof, lawful money of the United States of America, being not less than the total amount payable by the terms of said Contract, for which payment well, truly and promptly to be made we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly, and severally, firmly by these presents.

**PAYMENT BOND**

The condition of the above obligation is such that if the Contractor, or the Contractor’s subcontractors, fail to pay for any materials, provisions or other supplies used in, upon, for, or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Act with respect to such work or labor, the Surety will pay for the same, in an amount not exceeding the sum specified in this Bond, provided that any and all claims hereunder shall be filed and proceedings had in connection therewith as required by the provisions of said Sections 9550 to 9566 inclusive of the Civil Code of the State of California, and any amendments thereof: PROVIDED ALSO, that in case suit is brought upon this Bond a reasonable attorney’s fee shall be awarded by the court to the prevailing party in said suit, said attorney’s fee to be fixed as costs in said suit, and to be included in the judgment therein rendered.

No prepayment or delay in payment and no change, extension, addition, or alteration of any provision of said Contract or Contract Documents agreed to between the Contractor and the District, and no forbearance on the part of the District, shall operate to release the Surety from liability on this Bond, and consent to make such alterations without further notice to or consent by the Surety is hereby given, and the Surety hereby waives the provisions of Section 2819 of the Civil Code of the State of California.

Dated the day and year entered on the first page hereof.

Each signator to this bond hereby declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

\_\_\_\_\_  
Contractor

By \_\_\_\_\_

\*Title \_\_\_\_\_

By \_\_\_\_\_

\*\*Title \_\_\_\_\_

(SEAL OF SURETY)

\_\_\_\_\_  
Surety

By \_\_\_\_\_

Title \_\_\_\_\_

*Note: The signature of the Surety on this bond must be acknowledged before a Notary Public. An executed Power of Attorney indicating that the Surety’s representative is authorized to bind the Surety must accompany this bond.*

The foregoing Bond was accepted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_, East Bay Municipal Utility District

Specifications / Proposal No. \_\_\_\_\_

\*If corporation, Corporate President or CEO; if Partnership, Partner.  
\*\*Corporate Secretary or financial officer.

# FAITHFUL PERFORMANCE BOND

NOW, THEREFORE, if the Contractor shall well and truly carry out, execute and perform all things by the Contractor to be carried out, executed and performed, according to the terms and conditions of said Contract, including any and all warranty and guaranty obligations contained therein, then this obligation shall become null and void, otherwise to remain in full force and effect throughout the period of performance, including any warranty or guaranty period.

No prepayment or delay in payment, and no change, extension, addition, or alteration of any provision of said Contract or Contract Documents agreed to between the Contractor and the District, and no forbearance on the part of the District shall operate to release the Surety from liability on this Bond, and consent to make such alterations without further notice to or consent by the Surety is hereby given, and the Surety hereby waives the provisions of Section 2819 of the Civil Code and Section 359.5 of the Code of Civil Procedure of the State of California.

Each signator to this bond hereby declares under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated the day and year entered on the first page hereof.

\_\_\_\_\_  
Contractor

By \_\_\_\_\_

\*Title \_\_\_\_\_

By \_\_\_\_\_

\*\*Title \_\_\_\_\_

(SEAL OF SURETY)

\_\_\_\_\_  
Surety

By \_\_\_\_\_

Title \_\_\_\_\_

*Note: The signature of the Surety on this bond must be acknowledged before a Notary Public. An executed Power of Attorney indicating that the Surety's representative is authorized to bind the Surety must accompany this bond.*

The foregoing Bond was accepted and approved this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

\_\_\_\_\_, East Bay Municipal Utility District

Specifications / Proposal No. \_\_\_\_\_

\*If corporation, Corporate President or CEO; if Partnership, Partner.

\*\*Corporate Secretary or financial officer.

**EXHIBIT F**  
**SCOPE OF WORK**



# EXHIBIT F

## SCOPE OF WORK

### BIOSOLIDS HANDLING SERVICES 2022

#### I. OVERVIEW

Under this Agreement, it is required that all labor, equipment, materials, and supervision be furnished by Contractor to:

1. Receive, haul, and beneficially use biosolids from the East Bay Municipal Utility District (District) Main Wastewater Treatment Plant (MWWTP) at 2020 Wake Avenue, Oakland, California.
2. Receive, haul, and deliver biosolids from the MWWTP to a processing facility located within 50 miles of the MWWTP, as directed by the District.

The duration of the contract will be for two years beginning on July 1, 2022, with option by the District at the District's sole discretion to extend for three additional one-year periods.

The biosolids shall become the property of the Contractor at the time the material is deposited in the Contractor's receiving vehicle. Either year-round or during the specified season as defined in Section X(B), the Contractor shall provide handling services on a guaranteed basis 24 hours per day, seven days per week, regardless of weather conditions. There are no provisions for storage of biosolids for the Contractor at the MWWTP.

It is the policy of the District to promote the beneficial and cost-effective use of biosolids, in accordance with the District's environmental principles, while complying with all applicable federal, state, county, and local laws, rules, and regulations.

#### II. MATERIAL AND QUANTITY

##### A. Material Description

The material covered under this contract is a non-hazardous (Title 22), anaerobically digested, dewatered sewage sludge, called biosolids. The biosolids are currently dewatered using centrifuges and will have a solids content of 20 to 25% (i.e., moisture content of 75 to 80%) and weigh approximately 60 to 65

pounds per cubic foot (1,700 lbs/cubic yard). The material meets 40 CFR 503, Table 3, for metal limits (503.13); is Class B for pathogen reduction (Alternative 2) (503.32b); and meets Vector Attraction Reduction requirements with a volatile solids reduction of at least 38% [503.33b(1)].

Contractor should be aware that the biosolids may cause rust and may contain pathogenic microorganisms. Contractor should also be aware that biosolids contain small quantities of hydrogen sulfide and ammonia and also may produce methane gas if stored. The District cannot guarantee condition, quantity, or quality of the material. Notice is hereby given that the quantity, content, and nature of the material may change depending on influent received and treatment processes.

Contractor shall not mix biosolids with other materials prior to arrival at final use site unless approved in advance and in writing by the District.

## B. Quantities Produced

The District generates approximately 76,000 wet tons of biosolids annually. Daily production fluctuates but typically ranges from 180 to 240 wet tons per day. With an average truck able to carry 23 tons per load, the typical number of trucks per day typically ranges from 8 to 10.

Approximately ten percent of the District biosolids may be sent to a local facility within 50 miles of the MWWTP that produces a Class A biosolids product. This facility is termed "To Be Determined (TBD) Facility" in these RFP documents. The TBD Facility will be specified by the District at the start of the contract. Contractor will be required to haul biosolids to this facility and comply with all receiving requirements of the facility.

In addition to the amount to be diverted to the TBD facility, the District reserves the right to divert up to 10 percent of the expected annual biosolids production for pilot projects and/or other uses.

The Contractor shall be required to handle all biosolids that the District designates pursuant to this Agreement, even if the total quantity exceeds the estimate. Notice is hereby given that the District may receive food waste or other feedstock that could increase the biosolids production up to 20 percent during the course of this Agreement. The District will endeavor to provide advance notice of such changes to the Contractor. The Contractor shall have enough equipment and containers to accommodate the fluctuations in service.

### C. Dispatch Procedure

Each day by 4:00pm, the District will inform the Contractor of the number of trucks requested for the following day (12:00am to 11:59pm). The District reserves the right to impose a no-show penalty of \$250 for each truck requested that does not arrive. Additionally, if Contractor fails to send the requested number of trucks, the District may elect to have the biosolids hauled by an outside source, in which case all costs incurred above the contract price stated herein, plus any applicable direct and administrative costs, shall be credited by the Contractor instead of the no-show credit.

### III. EQUIPMENT REQUIRED

The MWWTP has biosolids hoppers, capable of storing approximately 1 1/2-days of biosolids production. The District reserves the right to control and maintain all of this storage for plant operation and emergency purposes. Approximately 12 feet of vertical clearance exists beneath the biosolids hoppers for loading access.

As required by construction, pilot testing, or maintenance, the District may also require the Contractor to be responsible for hauling from temporary dewatering operations at other locations on the plant site, with the Contractor's truck or vessel placed under a discharge pipe or conveyor.

Leak-proof trailers or containers with seals and wide anti-splash seals shall be used by Contractor for hauling of biosolids. Each trailer or container shall be appropriate for biosolids containment and equipped with covers (canvas or suitable alternative material) that can be securely fastened to reduce odors and contain biosolids in case the trailer overturns.

All hauling trucks used by Contractor shall be equipped with a reverse direction alarm consisting of a warning horn or beep that will activate any time the truck is in reverse. Each vehicle shall be equipped with a scraper, shovel, broom, and other tools as necessary to allow the driver to clean the vehicle and respond to drips or small spills. Transport vehicles must also be equipped with splashguards.

The Contractor shall be solely responsible for the condition of its equipment. All equipment shall be kept clean and properly maintained. The District has sole and exclusive discretion in determining if Contractor's equipment is acceptable. Only equipment in good working condition, as judged by the District, is acceptable. The District may reject pieces of equipment found to be in unsatisfactory condition or doing unsatisfactory work.

In the event of any rejection by the District, the Contractor must remove the unsatisfactory equipment and replace it with good and acceptable equipment that is consistent with District expectations.

The Contractor shall provide the District with a list of identification numbers, tare weights, and maximum legal load limit for all biosolids hauling containers, trucks, and/or trailers being utilized under this Agreement. Contractor shall conspicuously mark each tractor/trailer unit with the maximum legal weight of the unit when loaded and a corresponding "full load" indicator inside the trailer to guide loading.

The District assumes no responsibility whatsoever for loss or damage of equipment owned or operated by the Contractor, its agents, or employees. The entire responsibility for any and all injury to the public, to individuals, and to property resulting directly or indirectly from the performance of the work hereunder shall rest upon the Contractor.

#### **IV. PROCEDURES**

##### **D. COMMUNICATION**

- The Contractor shall designate one or more contact persons for day-to-day coordination with District operations staff.
- The Contractor shall designate one or more contact persons for resolution of contractual or invoicing issues as needed.
- The Contractor shall furnish and update, as necessary, a list of names, email addresses, and telephone numbers of responsible parties to be called on a 24-hour, 7 days per week basis in the event of an emergency or unusual operational conditions.

##### **E. SECURITY**

At District direction, the Contractor shall have a gate pass or badge for each hauler. Drivers will be expected to present this badge as well as their driver's license on each trip to the MWWTP.

##### **F. LOAD WEIGHING**

The Contractor must use the District's on-site scale for weighing loads unless the District directs otherwise. If the scale is damaged due to Contractor's use, Contractor agrees to compensate District for repairs. Otherwise, the District is responsible for all scale repairs. The empty vehicle weight as well as loaded vehicle weight must be measured. The Contractor shall lighten overloaded trucks at the MWWTP where directed by District staff.

G. TARPING

The Contractor shall be responsible for handling the trailer covers for loading and unloading. Covers shall be securely fastened before leaving the loading and unloading sites.

H. ROUTES

The District reserves the right to approve the Contractor's haul route to any destination. Drivers may not stop en route except for normal traffic requirements, fueling, and driver breaks.

I. CLEANLINESS

The Contractor shall be responsible for controlling and abating any odor, spillage, insect, vermin, or any other nuisance arising from its operation. The District will provide water and a wash down area which is to be used by the Contractor to keep the loading site(s) at the MWWTP and trucks clean and free of spillage before leaving the MWWTP. Any spillage or discharge of material to District or public roads shall be cleaned up promptly by the Contractor. If the District is required to clean up any spillage or discharge, all costs incurred including direct and administrative costs shall be reimbursed by the Contractor or withheld from Contractor payments.

The Contractor shall provide water for all vehicles used in hauling biosolids to complete washdown before leaving the use/disposal site. The interior of vehicle trailers, as well as all exterior surfaces, including tires and mud flaps shall be completely hosed down to minimize tracking of biosolids from the use/disposal site.

J. UNLOADING

The Contractor shall be responsible for coordination with appropriate authorities to conduct acceptable unloading operations to meet both District and unloading site requirements. The Contractor shall ensure that cargo bays are completely empty and the exterior of the truck clean prior to leaving the haul destination.

K. CONTINGENCY PLAN

The Contractor shall prepare a Biosolids Hauling Contingency Plan for responding to accidents or spills and submit this plan to the District's Biosolids Management Program Coordinator for approval within three weeks after receipt of contract award letter. The Contractor may not begin work until a contingency plan is accepted and approved by the District.

The plan shall be carried in each of Contractor's biosolids hauling trucks and be readily available to the driver in the event of an accident or spill.

A typical plan shall contain the following information:

- Emergency Procedures
- Emergency Contacts
- Basic First Aid Principles
- Incident Report Forms
- Material Safety Data Sheet or equivalent for biosolids
- Transportation Section

The Emergency Procedures Section shall discuss incident protocol, determining the extent of the incident, non-spill incident procedures, and spill cleanup procedures.

The Material Safety Data Sheet or equivalent shall establish that the biosolids are not a hazardous or dangerous material.

The Transportation Section shall discuss on-board safety equipment, safety training, equipment maintenance, truck routes, and any other applicable subjects.

## **V. SAFETY**

All safety orders, rules, and recommendations of the Division of Industrial Safety of the Department of Industrial Relations of the State of California applicable to the work to be done under this Agreement shall be obeyed and enforced by the Contractor. The Contractor shall comply with all applicable Federal, State, and local laws, ordinances, codes, and regulations. If Contractor performs a portion of the work in another state, that state's safety regulations shall also apply.

The Contractor shall provide operating and safety training for all personnel working under this Agreement. The Contractor shall train drivers on safety, emergency response, basic biosolids characteristics and regulations, haul routes, public perception issues and proper loading and unloading procedures. If land application is used, the Contractor shall train land application equipment operators on proper loading and application practices. The Contractor shall document training with sign-in sheets, syllabuses, handouts, etc., and provide such documentation to the District upon request. The Contractor's field staff shall be instructed on appropriate responses to inquiries from citizens or local government representatives and shall be furnished with contact information for the District's Biosolids Management Program Coordinator (name and phone number) to provide as appropriate.

As stated in Section IV, all hauling trucks shall be equipped with a reverse direction alarm consisting of a warning horn or beep that will activate any time the truck is in reverse.

Contractor's supervisory personnel shall be trained in first aid and each vehicle shall be equipped with a first aid kit. The Contractor shall comply with all State and Federal Department of Transportation requirements during the duration of this contract. All safety rules will be observed including those imposed at specific sites. Contractor's project personnel must be trained and familiar with procedures to follow if vehicles are involved in an accident.

## **VI. CONTRACTOR PERSONNEL**

The Contractor must furnish only experienced and skilled operators and other personnel as required. All workers employed by the Contractor and Subcontractors shall be competent and skilled in the performance of the work to which they are assigned. Failure or delay in the performance of this Agreement due to any inability by the Contractor, for any reason, to obtain employees of the number and skill required may be deemed by the District to constitute a default of this Agreement.

Contractor shall notify the District in writing two weeks prior to any changes in Subcontractors. If a Subcontractor and/or supplier is replaced, the Contractor shall be required to make good faith efforts as set forth in the Contract Equity Program Guidelines. Bidders should refer to Form P-046, Designation of Subcontractors, in the Contract Equity Program Guidelines package.

The Contractor shall assign a qualified person to be in charge of coordinating with District staff. The person in charge of Contractor's operations shall be available at all times to make decisions regarding work under this Agreement.

## **VII. GOOD PRACTICE AND INSPECTIONS**

The Contractor shall support and work within the guidelines set forth in the District's Policy 8.02 - Biosolids Management, provided as Exhibit G to this RFP. The Contractor shall participate in the District's management program for biosolids and shall support and work within the guidelines set forth therein.

The Contractor shall keep a record of inquiries, complaints, and all other public communications and forward a copy of such record to the District weekly if any such activities occur. Record shall include name and contact information for complainant, date, substance of complaint, response taken and date of response.

The District operates an inspection and monitoring program to ensure contract and permit compliance. The District's inspection of drivers and Contractor sites shall be allowed by Contractor without prior notification. The Contractor shall provide and update as required a current list of sites and contacts to the District for inspection purposes. The Contractor shall cooperate with the District's inspections and remedy any deficiencies found to the District's satisfaction and approval. The Contractor shall provide District access to the Contractor use records, reports, data and other information necessary to satisfy regulatory and program requirements.

## **VIII. CONTRACTOR LAND APPLICATION RESPONSIBILITIES**

If the biosolids are used for land application, the Contractor shall uphold a standard of care in accordance with the National Biosolids Partnership National Manual of Good Practice for Biosolids. The Contractor shall provide to the District baseline soil fertility and chemistry data, agronomic rate calculations, and a description of proposed field operations for each site two weeks prior to the start of land application for review and approval. The Contractor shall also be responsible for redirecting biosolids in the event the land applier is not in compliance.

Land application equipment shall be designed and maintained by Contractor to ensure that biosolids are applied evenly across the field at the proper application rate. Application equipment shall be calibrated by Contractor regularly.

Before operations on a land application site begin, the Contractor shall provide truck drivers and application equipment operators the following information:

- Haul route as shown on a map with written directions to the site.
- A map showing the fields and identification numbers where applications will take place.
- Location of the flagged areas, buffer zones, and any fields restricted from biosolids application.
- Locations of loading/stockpiling areas.
- Application rate to be used on each field and the total field capacity.
- Method of application and any time limits for soil incorporation.
- Weather/field conditions that require operations to be shut down or delayed.
- Any special requirements imposed by regulatory agencies, instructions from the farmer, and any good neighbor practices regarding odors, operating hours, or other aesthetic considerations.

Each day, after completing application to a field, the Contractor shall:

- Pick up trash.
- Back-drag and/or till off-loading areas.
- Till compacted areas (truck routes, staging areas).
- Secure fence openings/gates.
- Repair any damaged property as agreed upon with the farmer (e.g., fences, gates, mailboxes, cattle guards, culverts, farm roads, rutted areas).
- Clean up any materials tracked onto roadways during field operations and during equipment moves with absorbents, brooms and shovels or broom tractors.
- Chain drag/harrow pasture and hay fields where necessary.

Once application of biosolids is completed at a field, the Contractor is responsible for gathering and summarizing the application information and providing a copy of the information to the District's Biosolids Management Program Coordinator. Biosolids application information to be recorded by Contractor shall include at a minimum:

- Number of loads hauled.
- Number of gallons or wet tons per load.
- Average percent solids.
- Number of acres in the application area.
- Field and weather conditions.
- Dates of application.
- Date when planting and/or grazing may commence.

The Contractor shall comply with all local or state regulations regarding frequency and method of reporting. When biosolids applications are completed on a field, the Contractor shall provide the District's Biosolids Management Program Coordinator and the farmer a report that shows the total amount of biosolids, nutrients, and trace metals applied to each field.

The Contractor shall verify that all farmers in the program understand and agree to adhere to required site restrictions and shall provide to the District's Biosolids Management Program Coordinator a written statement signed by the farmer certifying this fact. The District reserves the right to prohibit the delivery of biosolids by the Contractor to farmers who do not comply with required site restrictions.

## **IX. REGULATIONS, PERMITS, AGREEMENTS**

The Contractor shall be aware of existing, revised, proposed, and new Federal, State and local rules and regulations covering its activities in connection with this work and comply with those rules and regulations. The Contractor shall be

responsible to notify the District of changes or practices necessitated by any revision in rules and regulations. The District will not be responsible for notifying the Contractor of any changes in rules and regulations regarding the handling and delivery of biosolids that affect its operations.

The Contractor shall be required to provide the District's Biosolids Management Program Coordinator with copies of all associated approved Federal, State, and local regulatory permits, including subsequent renewals for all activities identified in this Agreement. Permits shall be current and shall accommodate the handling of all biosolids quantities specified herein, throughout the entire term of this Agreement. Any actual or anticipated changes in permit requirements, or litigation that may affect the Contractor's operations shall be reported to the District within three days of the date that the Contractor knew, or reasonably should have known about such changes and/or litigation. All costs associated with obtaining the required permits shall be borne by the Contractor and shall be considered included in the proposed compensation for services.

It is the responsibility of the Contractor to ensure that their Subcontractor(s), and all workers that the Contractor or Subcontractor(s) employ, shall have proper and valid licenses and/or certifications as required by local, State, and Federal law to perform work as described in this contract. The Contractor shall, at the request of the District, supply proof of these licenses and/or certifications.

The Contractor shall maintain and provide copies to the District's Biosolids Management Program Coordinator of auditable records, documents, and papers documenting the complete disposition of biosolids handled by the Contractor for inspection by authorized local, State and Federal representatives as required by law.

The Contractor shall be responsible, at its expense, for meeting monitoring and reporting requirements imposed by all regulatory agencies having jurisdiction over the Contractor operations. The Contractor shall be responsible to provide improvements and pay all operating expenses required for compliance with the requirements of the responsible regulatory agencies.

The Contractor shall bear the total cost of obtaining and maintaining all required permits and approvals.

## X. TERM OF CONTRACT AND PRICING

### A. TERM

At the District's sole discretion, the term of the Agreement shall be for two years beginning July 1, 2022, with an option by the District to extend the contract for three additional one-year periods.

### B. SEASONAL TRANSITION

Land application of biosolids has seasonal constraints due to regulatory and practical factors. For this reason, if the District selects from Schedule 2:

- The allocations to Schedule 2A and 2B may not be equal.
- While the duration of each season cannot be predicted, the dry weather season will be approximated for planning purposes as the period from April 15 to October 14. The wet weather season will be approximated for planning purposes as the period from October 15 of one calendar year to April 14 of the following calendar year. Biosolids production at the MWWTP is approximately equivalent during the dry and wet weather seasons.
- Hauling to the TBD facility will be conducted on the same timeline as the end use.
- The Contractor responsible for the dry weather season will work with District staff to establish the seasonal start and end. The Contractor will be required to provide a minimum of one week notice before requesting the seasonal start or end of their services, followed by a one week transition period.
- The Contractor responsible for the wet weather season will be required to adapt to the seasonal start and end services established by the Contractor for the dry weather season with a one week notice and a one-week transition period.
- The services of either Contractor may be requested during the opposing season.

### C. CONTRACT COST ADJUSTMENT

Price adjustments will be made on a quarterly basis for diesel fuel prices and an annual basis for Consumer Price Index for All Urban Consumers (CPI-U). The percentages of the per ton prices subject to these indices will be established at the start of the contract. The percent subject to the diesel fuel index and percent subject to CPI-U must not exceed 100% when added. The index values will be noted at the start of the contract and will establish the basis against which future adjustments are made. The price adjustments may result in a decrease of price.

The quarterly diesel fuel price adjustment will be based on information from the Energy Information Administration, available at [eia.gov/petroleum/gasdiesel](http://eia.gov/petroleum/gasdiesel). The information will be taken from the California data. The index from the end of each fiscal quarter will be used in the adjustment to the base price, and the adjusted price will be effective at the start of the following quarter.

The annual CPI-U adjustment will be based on data from the U.S. Bureau of Labor Statistics, available at [bls.gov](http://bls.gov). The information will be taken from the San Francisco-Oakland-Hayward data. The index from the end of the fiscal year will be used in the adjustment to the base price, and the adjustment price will be effective at the start of the following fiscal year.

Changes to other cost elements such as material, overhead, and general sales and administration costs will not be considered as cause to adjust prices, with the exception of regulatory changes. At the District's discretion, price adjustments may be made in the event of unforeseen regulatory changes causing a substantial change in cost for the Contractor.

### D. INVOICING

Payment will be made on a per wet ton basis as measured by scale weight of the Contractor's truck, trailer, or container less tare taken as weighed on the District's certified scale. Payment will be based on the actual tonnage. As addressed in Section II(C), if the Contractor fails to provide requested loads, invoice shall reflect a "no-show" credit of \$250 for each truck requested but not received.

The Contractor shall furnish invoices to the District's Accounts Payable Department at least monthly. Invoices shall contain the following information at a minimum:

- District PO number
- Invoice number
- Remit-to address

- Itemized services description including beneficial use(s) and location(s) for all tons handled during that period. The location will either be a facility name or, for land application, the County in which the land application field is located. The tonnage will be presented to two decimal places (one-hundredth of a ton)
- Backup details including:
  - Truck ticket number, with entries sorted according to truck ticket number
  - Wet tons per truck ticket, to two decimal places (one-hundredth of a ton)

One-hundred percent (100%) of the contract price per ton times the certified weight of each load, less any applicable payment terms, discounts, or costs incurred by the District subject to reimbursement as described previously, will be paid to the Contractor within 30 days following receipt of a correct invoice and upon complete satisfactory receipt of product and/or performance of services. The District shall notify the Contractor of any invoice adjustments required.

**EXHIBIT G**  
**DISTRICT BIOSOLIDS POLICY**



# Policy 8.02

EFFECTIVE

27 NOV 18

## BIOSOLIDS MANAGEMENT

SUPERSEDES

25 OCT 16

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### IT IS THE POLICY OF THE EAST BAY MUNICIPAL UTILITY DISTRICT TO:

Promote the beneficial, sustainable, and cost-effective use of biosolids, in accordance with the District's mission statement, and federal, state, county, and local laws, rules, and regulations. Administer the District's biosolids management program utilizing a best practices and continuous improvement approach.

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**Definition** Biosolids are nutrient-rich organic materials that are stabilized through anaerobic digestion at the District's Main Wastewater Treatment Plant.

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**Objectives** To support this policy, the District will:

- Produce biosolids that comply with all applicable federal, state, and local requirements and quality standards regarding biosolids production, management, testing, storage, transportation, and end use or disposal.
- Ensure a net benefit to the environment by implementing sustainable, environmentally-acceptable biosolids management practices and operations.
- Maximize biosolids resource recovery (carbon, nutrients, water, and energy) and minimize negative impacts to land and air, including potential for off-site odors.
- Maintain cost-effective biosolids management practices and end uses, while monitoring emerging technologies and uses for potential future application.

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**Method** To meet these objectives, the District will:

- Continue to implement a biosolids management program that ensures regulatory compliance. Provide a framework to identify and implement program improvements.
- Monitor solids processing operations (production, processing, transport, storage, and end use), implement preventive maintenance plans, and develop corrective and preventive action plans to improve management practices, as needed.
- Identify and implement operation and maintenance procedures, including good housekeeping, to reduce the potential for off-site odor impacts.
- Maintain contingency and emergency response plans to address unanticipated events such as inclement weather, spills, and equipment malfunctions.
- Develop technology evaluations for a range of biosolids management options and promote development of innovative beneficial uses to support long-term planning efforts.
- Communicate key elements of the District's biosolids management program with regulators, stakeholders, and other interested parties.

**Authority**

Adopted by Resolution 33365-03, July 8, 2003  
Amended by Resolution 33523-06, March 28, 2006  
Amended by Resolution 33550-06, July 25, 2006  
Amended by Resolution No. 33763-10, April 27, 2010  
Amended by Resolution No. 33883-12, June 26, 2012  
Amended by Resolution No. 33993-14, August 12, 2014  
Amended by Resolution No. 35008-16, October 25, 2016  
Amended by Resolution No. 35120-18, November 27, 2018

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**Reference**

Policy 7.05 – Sustainability and Resilience  
Policy 7.07 – Energy

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