



**REQUEST FOR PROPOSAL (RFP) for  
Customer Opinion Research - 2023  
RFP# (116-054333)**

***ADDENDA***

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

***CONTACT***

**Kelly Zito**, Special Assistant to the General Manager  
(510) 287-0111  
[kelly.zito@ebmud.com](mailto:kelly.zito@ebmud.com)

***RESPONSE DUE***

January 10, 2023  
4:00 p.m. PST

***SUBMIT ELECTRONICALLY TO\****

**Kelly Zito**, Special Assistant to the General Manager  
[kelly.zito@ebmud.com](mailto:kelly.zito@ebmud.com)

*\*Hardcopy proposals will not be accepted*

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# **EAST BAY MUNICIPAL UTILITY DISTRICT**

**RFP**

**for**

**CUSTOMER OPINION RESEARCH - 2023**

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**I. STATEMENT OF WORK****A. SCOPE**

It is the intent of these specifications, terms, and conditions to describe the services being requested by the District to develop and administer a 2023 residential consumer opinion survey. The selected consultant will design, administer, and complete a written report and presentation on a residential consumer opinion survey conducted in early 2023. This work should consider the survey approach used in the past (random digit dialing, 1,200 interviews of residential consumers in English, Spanish and Chinese using a survey instrument/discussion guide 15 – 20 minutes long) and recommend any changes to approaches and research tools based on current best practices for data gathering (e.g. land lines, cell phones, text, emails). Consultant will provide all raw data collected and both high-level and detailed analyses of trends, demographics, key consumer concerns, and opportunities for improving customer opinion, etc.

East Bay Municipal Utility District (District) intends to award a one-year contract to the Proposer(s) who best meets the District's requirements.

**B. PROPOSER QUALIFICATIONS****1. Proposer Minimum Qualifications**

- a. Proposer, Proposer's principal, or Proposer's staff shall have been regularly engaged in the business of providing consumer opinion surveys for at least three (3) years.
- b. Proposer shall be responsive in clearly stating the firm's understanding of the required work.
- c. Proposer's firm's technical experience and qualifications in providing these types of services.
- d. Proposer's technical experience and qualifications of the staff proposed to work on EBMUD projects.
- e. Proposer shall possess all permits, licenses, and professional credentials necessary to perform services as specified under this RFP.

**C. SPECIFIC REQUIREMENTS**

Consult with EBMUD's survey research project manager to determine issues to be investigated in the residential consumer opinion research starting in February 2023 and provide survey instrument drafts for District review by e-mail, with the expectation of receiving final draft approval from the District by late February 2023.

Translate the final survey into Spanish and Chinese, and complete the survey administration in English, Spanish, and Chinese in early March 2023.

Deliver the survey research top lines by e-mail within one week of completing the research, and deliver a draft PowerPoint presentation analyzing the findings within three weeks for District review. Provide up to two additional drafts of the presentation materials as requested.

Deliver a draft written report by e-mail summarizing the survey results plus up to two additional drafts as requested. Upon approval of the final report, deliver 5 bound copies of the final report and one copy of the report bound with the cross-tabulations of the data as well as digital versions of these. This deliverable should be completed within eight weeks of completion of the research.

## **II. CALENDAR OF EVENTS**

### RFP Schedule

<b>EVENT</b>	<b>DATE/LOCATION</b>
RFP Issued	December 2, 2022
Response Due	January 10, 2023 by 4:00 p.m.
Complete Proposal Review and Evaluation	January 23, 2023
Vendor Notification	January 24, 2023
Anticipated Contract Start Date	February 14, 2023

**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.

## **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 opened.

**B. EVALUATION CRITERIA/SELECTION COMMITTEE**

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

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

RFP responses will be evaluated 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>Technical Criteria:</b> An evaluation will be made of the probability of success of, and risks associated with, the RFP response. A comparison will be made of the proposed services with the requirements of this RFP. Credit will be given for convenience, responsiveness, and technical expertise.
<b>B.</b>	<b>Cost:</b> The points for Cost will be computed by dividing the amount of the lowest responsive RFP response received by each Proposer's total proposed cost.

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



	4. Has the Proposer demonstrated that it understands the District's time schedule and can meet it?
<b>H.</b>	<b>Methodology:</b> RFP responses will be evaluated against the RFP specifications and the questions below: <ol style="list-style-type: none"> <li>1. Does the methodology depict a logical approach to fulfilling the requirements of the RFP?</li> <li>2. Does the methodology match and contribute to achieving the objectives set out in the RFP?</li> <li>3. Does the methodology interface with the District's time schedule?</li> </ol>
<b>I.</b>	<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.

C. PRICING

1. Prices quoted shall be firm for the first twelve (12 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.

D. 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 or USPS 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.

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

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: Kelly Zito

Special Assistant to the General Manager

EBMUD-Office of the General Manager/Public Affairs Office

E-Mail: [Kelly.Zito@ebmud.com](mailto:Kelly.Zito@ebmud.com)

PHONE: **Error! Reference source not found.**

FOR INFORMATION ON THE CONTRACT EQUITY PROGRAM:

Attn: Contract Equity Office

E-Mail: [contract.equity@ebmud.com](mailto:contract.equity@ebmud.com)

PHONE: (510) 287-0114

AFTER AWARD:

Attn: Kelly Zito

Special Assistant to the General Manager

EBMUD-Office of the General Manager/Public Affairs Office

E-Mail: [Kelly.Zito@ebmud.com](mailto:Kelly.Zito@ebmud.com)

PHONE: **Error! Reference source not found.**

**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 [Kelly.Zito@ebmud.com](mailto:Kelly.Zito@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) 287-0151 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, or C, or qualify their RFP responses. Proposers shall not submit to the District a re-typed or otherwise re-created version of these documents or any other District-provided document.**
2. RFP responses, in whole or in part, are NOT to be marked confidential or proprietary. The District may refuse to consider any RFP response or part thereof

so marked. RFP responses submitted in response to this RFP may be subject to public disclosure. The District shall not be liable in any way for disclosure of any such records.





# **EXHIBIT A**

## **RFP RESPONSE PACKET**

### **RFP for Customer Opinion Research 2023**

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.”.**



## PROPOSER INFORMATION AND ACCEPTANCE

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

Addendum #	Date

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



9. The undersigned acknowledges that RFP responses, in whole or in part, are NOT to be marked confidential or proprietary. The District may refuse to consider any RFP response or part thereof so marked. RFP responses submitted in response to this RFP may be subject to public disclosure. The District shall not be liable in any way for disclosure of any such records.
10. The undersigned Proposer hereby submits this RFP response and binds itself to the District. The RFP, subsequent Addenda, Proposers Response Packet, and any attachments, shall be used to form the basis of a Contract, which once executed shall take precedence.
11. The undersigned acknowledges **ONE** of the following (please check only one box)\*:
- ☐ Proposer is not an SBE 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\_\_\_\_\_



## PROPOSAL FORM

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

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

Description	Unit of Measure	Estimated Quantity	Unit Cost	Extended Cost
(Example: Senior Consultant)	hour		\$	\$
			\$	\$
TOTAL COST				\$



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

restrictions of the Proposer in providing the services that the District should be aware of in evaluating its RFP response to this RFP.

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

“Exceptions, Clarifications, Amendments” section of this Exhibit A – RFP Response Packet.

- (b) **THE DISTRICT IS UNDER NO OBLIGATION TO ACCEPT ANY EXCEPTIONS, AND SUCH EXCEPTIONS MAY BE A BASIS FOR RFP RESPONSE DISQUALIFICATION.**

10. **Contract Equity Program:**

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



## REFERENCES

### RFP for Customer Opinion Research - 2023

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

**Proposer must provide a minimum of three (3) references.**

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

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

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

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

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



## EXCEPTIONS, CLARIFICATIONS, AMENDMENTS

### RFP for Customer Opinion Research - 2023

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

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

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

Reference to:			Description
Page No.	Section	Item No.	
p. 23	D	1.c.	Proposer takes exception to...

\*Print additional pages as necessary





## **CONTRACT EQUITY PROGRAM & EQUAL EMPLOYMENT OPPORTUNITY**

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

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

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

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

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

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

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

**[Contract Equity Guidelines and Forms](#)**

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

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

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





## **EXHIBIT B**

# **INSURANCE REQUIREMENTS**

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:	\$2,000,000
Bodily Injury and Property Damage:	\$2,000,000

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:** \_\_\_\_\_

## **V. Professional Liability (also known as Errors and Omissions) 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: Professional Liability Insurance with minimum limits as follows:

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

D. 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 claims-made coverage is canceled or non-renewed, and not replaced with another claims-made policies 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.

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

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

## **Verification of Professional Liability (Errors and Omissions) Insurance Coverage**

As the CONTRACTOR'S insurance broker/agent, I hereby verify that I have reviewed and confirmed that the CONTRACTOR carries Professional 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: \_\_\_\_\_

#### **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:** \_\_\_\_\_

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

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

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

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





**EXHIBIT C  
PROFESSIONAL SERVICES AGREEMENT**

**CONSULTING AND PROFESSIONAL  
SERVICES AGREEMENT FOR  
EAST BAY MUNICIPAL UTILITY DISTRICT**

*Customer Opinion Survey - 2023*

THIS AGREEMENT is made and entered into this \_\_\_\_\_ day of (*month*), 2023, by and between **EAST BAY MUNICIPAL UTILITY DISTRICT**, a public entity, hereinafter called "DISTRICT," and (*CONSULTANT'S FULL LEGAL NAME, BOLD, ALL CAPS followed by type of entity (corporation, etc.)*), hereinafter called "CONSULTANT."

**WITNESSETH**

WHEREAS, DISTRICT requires consulting services for *Customer Opinion Survey - 2023*; and such services are authorized by Purchase Order No \_\_\_\_\_; and

WHEREAS, CONSULTANT has submitted a proposal to provide consulting services for *customer opinion research services* and CONSULTANT represents that it has the experience, licenses, qualifications, staff expertise and where necessary the required Department of Industrial Relations (DIR) registration to perform said services in a professional and competent manner; and

WHEREAS, DISTRICT Board of Directors has authorized the contract by Motion Number \_\_\_\_\_;

NOW, THEREFORE, it is mutually agreed by DISTRICT and CONSULTANT that for the considerations hereinafter set forth, CONSULTANT shall provide said services to DISTRICT, as set forth in greater detail herein.

**ARTICLE 1 - SCOPE OF WORK**

- 1.1 CONSULTANT agrees to furnish services set forth in Exhibit A, Scope of Services, attached hereto and incorporated herein. The services authorized under this Agreement shall also include all reports, manuals, plans, and specifications as set forth in Exhibit A.
- 1.2 CONSULTANT's work products shall be completed and submitted in accordance with DISTRICT's standards specified, and according to the schedule listed, in Exhibit A. The completion dates specified herein may be modified by mutual agreement between DISTRICT and CONSULTANT provided that DISTRICT's Project Manager notifies CONSULTANT of modified completion dates by letter. CONSULTANT agrees to diligently perform the services to be provided under this Agreement. In the performance of this Agreement, time is of the essence.

- 1.3 It is understood and agreed that CONSULTANT has the professional skills necessary to perform the work agreed to be performed under this Agreement, that DISTRICT relies upon the professional skills of CONSULTANT to do and perform CONSULTANT's work in a skillful and professional manner, and CONSULTANT thus agrees to so perform the work. CONSULTANT represents that it has all the necessary licenses to perform the work and shall maintain them during the term of this Agreement. CONSULTANT agrees that the work performed under this Agreement shall follow practices usual and customary to the (*state type - for example "engineering"*) profession and that CONSULTANT is in responsible charge of the work for all activities performed under this Agreement. Acceptance by DISTRICT of the work performed under this Agreement does not operate as a release of CONSULTANT from such professional responsibility for the work performed.
- 1.4 CONSULTANT agrees to maintain in confidence and not disclose to any person or entity, without DISTRICT's prior written consent, any trade secret or confidential information, knowledge or data relating to the products, process, or operation of DISTRICT. CONSULTANT 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 CONSULTANT during the term of this Agreement. The covenants contained in this paragraph shall survive the termination of this Agreement for whatever cause.
- 1.5 The originals of all designs, graphics, studies, reports, manuals, photographs, videotapes, data, computer files, and other documents prepared or caused to be prepared by CONSULTANT or its subconsultants in connection with these services shall be delivered to and shall become the exclusive property of DISTRICT. DISTRICT is licensed to utilize these documents for DISTRICT applications on other projects or extensions of this project, at its own risk. CONSULTANT and its subconsultants may retain and use copies of such documents, with written approval of DISTRICT.
- 1.6 CONSULTANT is an independent contractor and not an employee of DISTRICT. CONSULTANT expressly warrants that it will not represent that it is an employee or servant of DISTRICT.
- 1.7 CONSULTANT is retained to render professional services only and all payments made are compensation solely for such services as it may render and recommendations it may make in carrying out the work.
- 1.8 It is further understood and agreed by the parties hereto that CONSULTANT in the performance of its obligations hereunder is subject to the control or direction of DISTRICT as to the designation of tasks to be performed, the results to be accomplished by the services hereunder agreed to be rendered and performed, and not the means, methods, or sequence used by the CONSULTANT for accomplishing the results.
- 1.9 If, in the performance of this agreement, any third persons are employed by CONSULTANT, such person shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. All terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by CONSULTANT, and DISTRICT shall have no right or authority over such persons or the terms of such employment.
- 1.10 It is further understood and agreed that as an independent contractor and not an employee of DISTRICT, neither the CONSULTANT nor CONSULTANT's assigned personnel shall have any entitlement as a DISTRICT employee, right to act on behalf of DISTRICT in any capacity whatsoever as agent, nor to bind DISTRICT to any obligation whatsoever. CONSULTANT shall not be covered by DISTRICT's worker's compensation insurance; nor shall CONSULTANT be entitled to compensated sick leave,



vacation leave, retirement entitlement, participation in group health, dental, life or other insurance programs, or entitled to other fringe benefits payable by DISTRICT to employees of DISTRICT.

## **ARTICLE 2 - COMPENSATION**

- 2.1 For the Scope of Services described in Exhibit A, DISTRICT agrees to pay CONSULTANT actual costs incurred, subject to a Maximum Cost Ceiling of \$(*dollars*). Compensation for services shall be in accordance with the method and amounts described in Exhibit B, attached hereto and incorporated herein.
- 2.2 In case of changes affecting project scope resulting from new findings, unanticipated conditions, or other conflicts or discrepancies, CONSULTANT shall promptly notify DISTRICT of the identified changes and advise DISTRICT of the recommended solution. Work shall not be performed on such changes without prior written authorization of DISTRICT.

## **ARTICLE 3 - NOTICE TO PROCEED**

- 3.1 This Agreement shall become effective upon execution of the second signature. CONSULTANT shall commence work upon receipt of DISTRICT's Notice to Proceed, which shall be in the form of a letter signed by DISTRICT's Project Manager. DISTRICT's Notice to Proceed will authorize the Contracted Services described in Exhibit A with ceiling prices described in ARTICLE 2 – COMPENSATION. No work shall commence until the Notice to Proceed is issued.

## **ARTICLE 4 - TERMINATION**

- 1.1 This Agreement may be terminated by DISTRICT immediately for cause or upon 10 days written notice, without cause, during the performance of the work.
- 1.2 If this Agreement is terminated CONSULTANT shall be entitled to compensation for services satisfactorily performed to the effective date of termination; provided however, that DISTRICT may condition payment of such compensation upon CONSULTANT's delivery to DISTRICT of any and all documents, photographs, computer software, videotapes, and other materials provided to CONSULTANT or prepared by CONSULTANT for DISTRICT in connection with this Agreement. Payment by DISTRICT for the services satisfactorily performed to the effective date of termination, shall be the sole and exclusive remedy to which CONSULTANT is entitled in the event of termination of the Agreement and CONSULTANT shall be entitled to no other compensation or damages and expressly waives same. Termination under this Article 4 shall not relieve CONSULTANT of any warranty obligations or the obligations under Articles 1.4 and 7.1.

## **ARTICLE 5 - PROJECT MANAGERS**

- 5.1 DISTRICT designates (*Project Manager's name*) as its Project Manager, who shall be responsible for administering and interpreting the terms and conditions of this Agreement, for matters relating to CONSULTANT's performance under this Agreement, and for liaison and coordination between DISTRICT and CONSULTANT. CONSULTANT may be requested to assist in such coordinating activities as necessary as part of the services. In the event DISTRICT wishes to make a change in the DISTRICT's representative, DISTRICT will notify CONSULTANT of the change in writing.
- 5.2 CONSULTANT designates (*Consultant Project Manager's name*) as its Project Manager, who shall have immediate responsibility for the performance of the work and for all matters relating to

performance under this Agreement. Any change in CONSULTANT designated personnel or subconsultant shall be subject to approval by the DISTRICT Project Manager. *(The following sentence is optional.)* CONSULTANT hereby commits an average of *(1 to 100)* percent of *(Consultant Project Manager's name)* time on this project for the duration of the project.

## **ARTICLE 6 - CONTRACT EQUITY PROGRAM COMPLIANCE**

- 6.1 CONSULTANT expressly agrees that this Agreement is subject to DISTRICT's Contract Equity Program ("CEP"). CONSULTANT is familiar with the DISTRICT's CEP and Equal Opportunity Guidelines, and has read and understood all of the program requirements. CONSULTANT understands and agrees to comply with the CEP and all requirements therein, including each of the Good Faith Efforts. CONSULTANT further understands and agrees that non-compliance with the CEP requirements may result in termination of this Agreement.
- 6.2 Designated CEP compliance for the duration of this Agreement is listed in Exhibit C, which is attached hereto and incorporated herein. CONSULTANT shall maintain records of the total amount actually paid to each subconsultant. Any change of CONSULTANT'S listed subconsultants shall be subject to approval by the DISTRICT'S Project Manager.

## **ARTICLE 7 - INDEMNIFICATION AND INSURANCE**

### **7.1 Indemnification**

CONSULTANT 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 CONSULTANT'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.

Where applicable by law, the duty to indemnify, including the cost to defend is limited in accordance with California Civil Code § 2782.8.

### **7.5 Insurance Requirements**

Insurance Requirements are as stated in Exhibit D, Insurance Requirements.

## **ARTICLE 8 - NOTICES**

- 8.1 Any notice which DISTRICT may desire or is required at any time to give or serve CONSULTANT may be delivered personally, or be sent by United States mail, postage prepaid, addressed to:

*(Consulting firm's name)*

*(Address)*

Attention: *(Contact, usually the consultant's project manager),*

or at such other address as shall have been last furnished in writing by CONSULTANT to DISTRICT.

- 8.2 Any notice which CONSULTANT may desire or is required at any time to give or serve upon DISTRICT may be delivered personally at EBMUD, 375 - 11th Street, Oakland, CA 94607-4240, or be sent by United States mail, postage prepaid, addressed to:

*(Name)*

*(Title)*

P.O. Box 24055

Oakland, CA 94623-1055

or at such other address as shall have been last furnished in writing by DISTRICT to CONSULTANT.

- 8.3 Such personal delivery or mailing in such manner shall constitute a good, sufficient, and lawful notice and service thereof in all such cases.

## **ARTICLE 9 - MISCELLANEOUS**

- 9.1 This Agreement represents the entire understanding of DISTRICT and CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may only be modified by amendment in writing signed by each party.
- 9.2 This Agreement is to be binding on the successors and assigns of the parties hereto. The services called for herein are deemed unique and CONSULTANT shall not assign, transfer or otherwise substitute its interest in this Agreement or any of its obligations hereunder without the prior written consent of DISTRICT.
- 9.3 Should any part of this Agreement 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 this Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement can be interpreted to give effect to the intentions of the parties.
- 9.4 Multiple copies of this Agreement may be executed by the parties and the parties agree that the Agreement on file at the DISTRICT is the version of the Agreement that shall take precedence should any differences exist among counterparts of the Agreement.
- 9.5 This Agreement and all matters relating to it shall be governed by the laws of the State of California.
- 9.6 The District's waiver of the performance of any covenant, condition, obligation, representation, warranty or promise in this agreement shall not invalidate this Agreement or be deemed a waiver of any other covenant, condition, obligation, representation, warranty or promise. The District's waiver of the time for performing any act or condition hereunder does not constitute a waiver of the act or condition itself.
- 9.7 There shall be no discrimination in the performance of this contract, 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), veteran or military status, family or medical leave status, genetic information, or sexual orientation. CONSULTANT shall not establish or permit any such practice(s) of discrimination with reference to the contract or any part. CONSULTANTS determined to be in violation of this section shall be deemed to be in material breach of this Agreement.

**Consultant 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.**

CONSULTANT shall include the nondiscrimination provisions above in all subcontracts.

9.8 CONSULTANT affirms that it does not have any financial interest or conflict of interest that would prevent CONSULTANT from providing unbiased, impartial service to the DISTRICT under this Agreement.

9.9 Digital Signatures. The Parties agree that this Agreement may be executed using digital signatures.

#### **ARTICLE 10 - TERM**

Unless terminated pursuant to Article 4 herein, this Agreement shall expire when all tasks have been completed and final payment has been made by DISTRICT.

IN WITNESS WHEREOF, the parties hereto each herewith subscribe the same in duplicate.

#### **EAST BAY MUNICIPAL UTILITY DISTRICT**

By: \_\_\_\_\_ Date \_\_\_\_\_  
(Name),  
(Title)

Approved As To Form

By: \_\_\_\_\_  
for the Office of the General Counsel

**(CONSULTING FIRM'S NAME, ALL CAPS & BOLD)**

By: \_\_\_\_\_ Date \_\_\_\_\_  
(Name),  
(Title)