

REQUEST FOR PROPOSAL (RFP) No. 23-557-01

for the Pardee Reservoir and Briones
Reservoir Water Quality
Improvement Project

ADDENDA

Prospective bidders are responsible for reviewing any
published addenda regarding this bid at
<https://www.ebmud.com/business-center/requests-proposal-rfps>

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RESPONSE DUE

March 16, 2023
4:00 p.m. PST

SUBMIT BY MAIL TO

RESPONSE DELIVERED BY SERVICE (UPS, FedEx, DHL, etc.) to: RFP 23-557-01 EBMUD—Purchasing Division, Room 102 375 Eleventh Street Oakland, CA 94607	RESPONSE DELIVERED BY MAIL (USPS) to: RFP 23-557-01 EBMUD—Purchasing Division, Room 102 P.O. Box 24055 Oakland, CA 94623
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EAST BAY MUNICIPAL UTILITY DISTRICT

RFP for the Pardee Reservoir and Briones Reservoir Water Quality Improvement Study

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I. STATEMENT OF WORK

A. SCOPE OVERVIEW

It is the intent of this RFP to describe the required scope for the planning and implementation of studies to better characterize the dynamics and water quality of Pardee Reservoir and Briones Reservoir, as well as the subsequent preliminary 10% design of East Bay Municipal Utility District (District)-approved operational, capital, and watershed management improvements to respond to current and emerging water quality threats to the reservoirs. Both reservoirs are generally pristine water sources; therefore, recommendations must be flexible enough for intermittent use primarily during poor water quality events. See Section I, subsection D for a detailed description of Scope of Services and Deliverables required under this RFP.

The District intends to authorize a contract for professional services to the Proposer(s) who best meet(s) the District's requirements described in this RFP. See Exhibit A for proposal requirements. A brief description of the Consultant tasks after award is presented below.

The Consultant is expected to complete the following project management tasks effectively and efficiently:

1. Conduct regular progress meetings in person and/or virtually with design group and all project stakeholders. This task includes background research and the preparation of meeting agendas, presentations, and summaries.
2. Conduct stakeholder workshops in person/virtually to discuss water quality study plans, designs, implementation, results, and other pertinent project information.
3. Mediate between, solicit, and incorporate feedback from District stakeholders.
4. Generate, prioritize, and provide operational, capital, and watershed management recommendations that are cost efficient, practical, informed, and approved by stakeholders.
5. Comply with minimum review period and abide by project deadlines specified by District staff.
6. Communicate project delays, cost adjustments, and other problems, along with proposed solutions, in a clear and timely manner to District staff.
7. Minimize project staff turnover for the duration of the contract. Ensure excellent recordkeeping to facilitate good project coverage if turnover occurs.

8. Conduct site visits as needed within the District's service area and in treatment facilities at Briones Reservoir (Contra Costa County) and Pardee Reservoir (Amador/Calaveras County).
9. Provide a detailed description of scope, level of effort, and labor distribution estimates as needed for the project agreement and its amendments (if needed).

The Consultant shall provide the technical expertise and support required to complete the technical memos or reports specified in Section I, subsection D. All work provided by the selected Proposer(s) shall be made available to the District in an editable form if requested during and after the contract duration.

Proposers are encouraged to recommend additional water quality studies and/or operational and capital improvements in their proposals based on the reservoir information provided in this RFP. Proposers shall provide separate line-item estimate(s) for costs associated with additional recommended designs and/or studies.

B. PROPOSER QUALIFICATIONS

Proposer Minimum Qualifications

1. Proposer, Proposer's principal, or Proposer's staff shall have been regularly engaged in the business of providing water quality monitoring and management strategies for lakes, reservoirs, and inline water treatment plants, including design of at least one oxygenation or aeration system in the last five (5) years.
2. Proposer shall possess all permits, licenses, and professional credentials necessary to perform services as specified under this RFP.

C. PROJECT BACKGROUND

Overview of the District's Water System:

Located in the East Bay of the San Francisco Bay Area, the District supplies water to approximately 1.4 million people within 20 incorporated cities and 15 unincorporated communities in Alameda and Contra Costa Counties. The primary source of the District's water is Upper Mokelumne River Watershed snowmelt collected and stored in Pardee Reservoir on the west side of the Sierra Nevada mountains. This water is transmitted westward over 90 miles through three large steel transmission pipelines, the Mokelumne Aqueducts, before being treated in one of the District's six water treatment plants (WTPs). The water system provides water to a 332-square-mile service area extending southward from Crockett in the north to San Lorenzo and portions of Hayward (encompassing the major cities of Oakland and Berkeley); eastward from the San Francisco Bay to Walnut Creek; and southward through the San Ramon Valley (including Alamo, Danville, and San Ramon). A schematic of the system is provided in Figure 1.

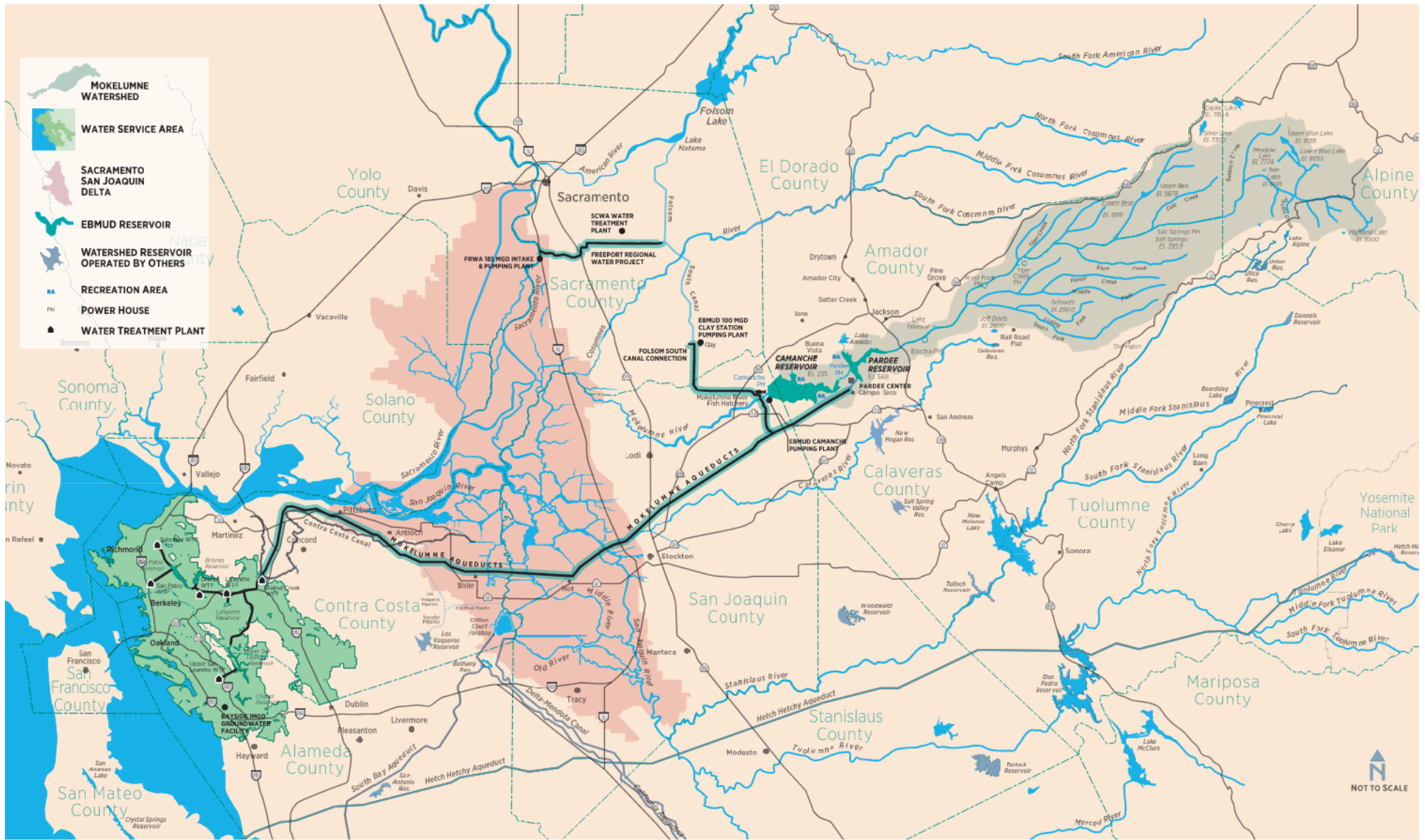


Figure 1. Overview of the District's Water Supply System

During normal years, approximately 90 percent of the District's water supply comes from Pardee Reservoir. Runoff from local East Bay watersheds comprises the remaining 10 percent. During drought years, water from the Sacramento River supplements these normal water supplies. The Mokelumne Aqueducts transport Pardee Reservoir water and Sacramento River supply for direct use at WTPs or for storage in Briones, Upper San Leandro, and San Pablo Reservoirs.

Overview of District's Raw Water Sources and Treatment Practices:

The District has four main raw water or terminal reservoirs and six treatment plants (three inline WTPs and three conventional WTPs). Prior to treatment, raw water is stored in Pardee Reservoir, Upper San Leandro (USL) Reservoir, San Pablo Reservoir, and Briones Reservoir. The water quality differs among sources and requires different treatment strategies. Pardee Reservoir, the main raw source water for the District, supplies water directly to the District's three inline WTPs (Walnut Creek, Lafayette, and Orinda) via the three Mokelumne Aqueducts. During higher demand periods or during major turbidity spikes at Pardee Reservoir, Briones Reservoir typically augments supply to Orinda WTP and, less commonly, to Lafayette and Walnut Creek WTPs. USL Reservoir supplies raw water to USL WTP, and San Pablo Reservoir supplies raw water to Sobrante and San Pablo WTPs.

Walnut Creek, Lafayette, and Orinda are inline filtration WTPs. They treat Pardee Reservoir water via coagulation, dual-media filtration, and disinfection processes. These WTPs use polyaluminum chloride as primary coagulants and add caustic soda to increase the finished water pH for corrosion control. Residual disinfection is maintained via chloramination. These inline plants rely on pristine, high-quality raw water with very low turbidity (<5 nephelometric turbidity units [NTU]) and low total organic carbon (TOC) content. They are not currently equipped to treat raw water with high turbidity (>15 NTU) and/or high TOC for long periods of time. Climate change and natural disasters such as wildfires are expected to continue to impact the District's inline WTPs such that this form of treatment will no longer be sufficient. This RFP is for consulting support services to assist the District in managing changing raw water quality conditions in both Pardee Reservoir and Briones Reservoir.

Sobrante and USL WTPs are conventional treatment plants with settling basins and ozonation. These conventional WTPs use coagulation, flocculation, sedimentation, ozonation, dual-media filtration, and disinfection to treat raw water. San Pablo WTP is a third conventional WTP, but it does not have ozonation. These WTPs use alum as their primary coagulant and add caustic soda to increase the finished water pH for corrosion control. They treat raw water that varies more widely in quality, including raw water with high turbidity and total organic content from the San Pablo and USL Reservoirs and raw water from alternative sources such as the District's Freeport Regional Water Project (see Figure 1), during drought. The District manages USL Reservoir quality, in part, by operation of a hypolimnetic oxygenation system that has been in service for over 20 years. A new HOS is currently under construction for the San Pablo Reservoir.

Pardee Reservoir & Dam Description:

Pardee Reservoir is a 203,795-acre-foot raw water reservoir at the foothills of the Sierra Nevada Mountains near Valley Springs, CA. It collects water from the Upper Mokelumne River Watershed (579 square miles, or 370,141 acres) via the Mokelumne River. The District owns and manages approximately 3% of the Upper Mokelumne River Watershed; most of the upstream watershed land is owned and managed by private entities or the federal government and is classified as natural resources or wilderness by the county general plans. Pardee Reservoir is the primary source of raw water for the District's potable water system. The reservoir is also used for power generation (28.95 megawatts via power plant) and recreation. Pardee Reservoir was constructed in 1929 on the irregular hard rock of the Gopher Ridge Volcanics and the weaker Salt Springs Slate. Reservoir water elevation ranges from 518 feet to 567 feet. The dam is a concrete gravity arch structure with an upstream radius of 1,200 feet. An overview of the reservoir dam is shown in Figure 2.

Pardee Reservoir is able to supply up to 200 million gallons per day (MGD) of Mokelumne water to the District's service area under gravity flow and 325 MGD under pumped conditions. Water is conveyed 82 miles to the East Bay through the District's Mokelumne Aqueducts. The Mokelumne Aqueducts can supply water directly to the District's inline WTPs (Walnut Creek, Lafayette, and Orinda) and indirectly to its conventional WTPs (USL, Sobrante, and San Pablo) via East Bay terminal raw water reservoirs as discussed above. Water can also be pumped from the aqueducts into Briones Reservoir for later use.

Pardee Outlet Tower facilitates flow from Pardee Reservoir to East Bay WTPs. Built in 1929, the tower is a lightly reinforced concrete cylindrical structure built with a 19-foot inside diameter and wall thicknesses varying from 1.5 feet at the top to 4.5 feet at the bottom. The tower shaft is approximately 200 feet tall, with 70 feet of its height embedded in rock below the base of the approach channel excavation. Gates into the tower are located at four elevations (550 feet, 520 feet, 490 feet, and 460 feet); each elevation has 3 inlets sized 30 inches by 36 inches.

Pardee Tunnel, beginning at the base of Pardee Tower, is a 98-inch-diameter concrete (940 feet reinforced; the remaining 10,675 feet unreinforced) tunnel that carries water from Pardee Reservoir to the start of the Mokelumne Aqueducts at Campo Seco Center. Lime is currently added to the Pardee Tunnel upstream of Campo Seco, and historically chlorine has been added at this location as well. Pardee Tunnel is part of the original Pardee construction and has been in service since 1929. A 2018 tunnel inspection stated that the tunnel condition was good, although some leakage (10-15 gallons per minute [gpm]) was observed, with an overall flow of 40 MGD or 27,800 gpm.

The Mokelumne Aqueducts consist of three large-diameter aqueducts (Mokelumne No. 1, Mokelumne No. 2, and Mokelumne No. 3) that convey water approximately 82 miles from Campo Seco downstream of Pardee Reservoir to Walnut Creek. Water from Pardee takes 30 to 40 hours to reach the East Bay through these aqueducts. A brief description of each aqueduct is shown in Table 1.

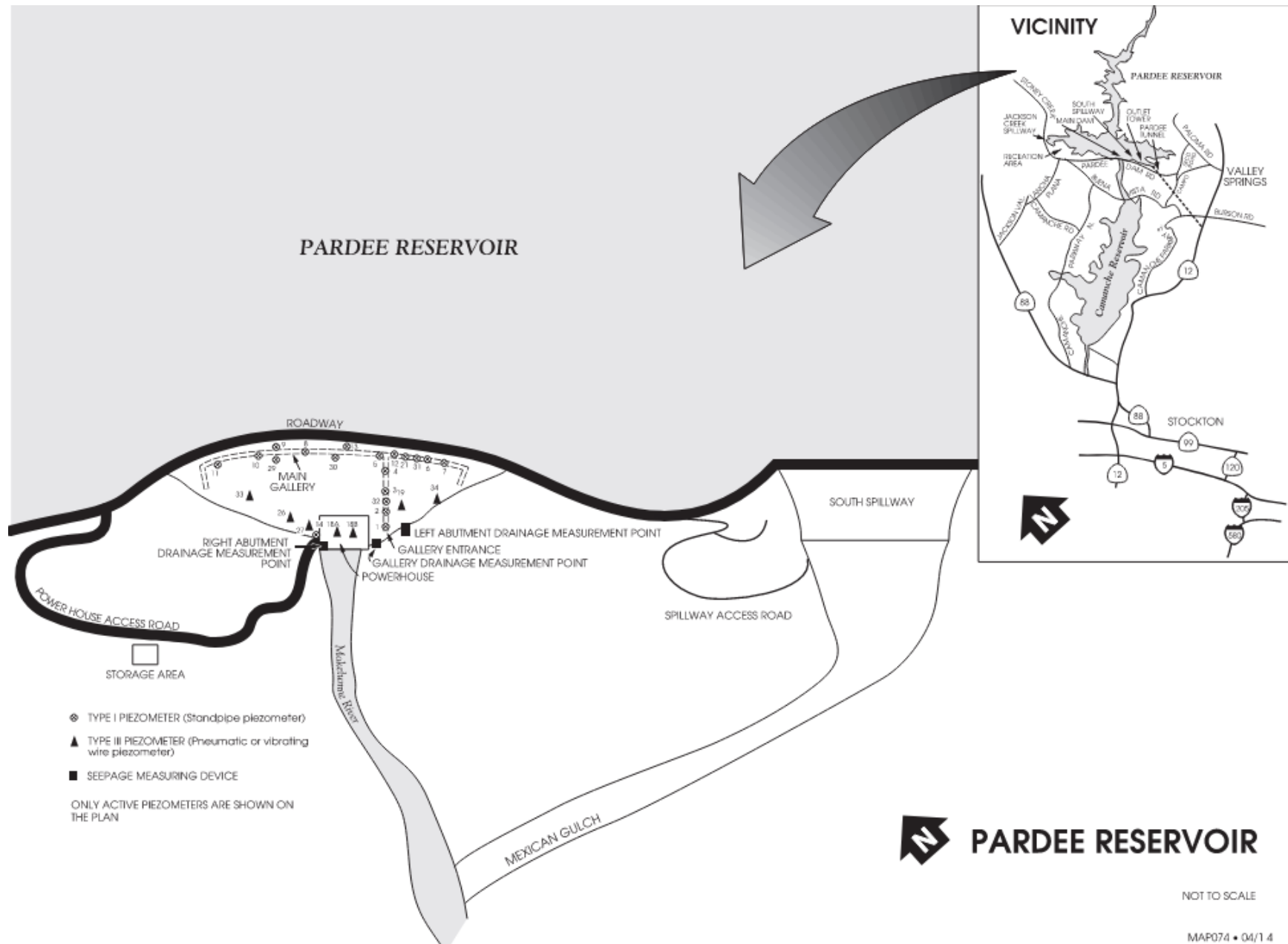


Figure 2. Overview of Pardee Reservoir Dam and Vicinity

Table 1. Mokelumne Aqueduct Characteristics

Mokelumne Aqueduct No.	Year Placed in Service	Diameter (inches)	Construction Materials	Maximum Gravity Flow Capacity (MGD)	Maximum Pumped Flow Capacity (MGD)
1	1929	65	Riveted and welded steel pipeline with coal-tar enamel lining and coating	41	66
2	1949	67	Primary steel with cement mortar lining. There are 26 miles of hybrid steel-concrete pipe.	54	87
3	1963	87	Mortar-lined welded steel	107	172

Pardee Reservoir Operation:

Pardee Reservoir receives inflows from upstream Pacific Gas and Electric dams and runoff from the Upper Mokelumne River Watershed. Flows are monitored to ensure adequate storage of water in the summer, flood control during the winter, and fulfillment of downstream user obligations. Pardee Outlet Tower gates are operated to obtain the best quality water available based on reservoir turbidity, dissolved oxygen, filterability, and plankton data and to ensure the maintenance of a cold-water pool for downstream fish flows. Depth profiles of Pardee water quality (e.g., temperature, dissolved oxygen, pH) are collected by staff once or twice a month near the outlet tower. When necessary, such as during periods of challenging water quality, this frequency is increased. Profiles are also collected, typically every quarter, at the dam and river inlet. Monitoring at Pardee Reservoir is driven by regulatory requirements (Title 22) and operational needs. In accordance with state and federal requirements, samples are regularly collected and analyzed for microbial contaminants, inorganic chemicals, synthetic organic chemicals (SOCs), radionuclides, volatile organic chemicals (VOCs), and secondary contaminants. Sample frequency and analytes are varied as needed depending on water quality and filter plant operation. Pardee Reservoir turns over annually, usually in November, and stratifies during the summer.

Pardee Reservoir is operated as an integrated system with Camanche Reservoir, which lies directly downstream of Pardee. Camanche Reservoir has a volume of 417,120 acre-feet, with a main dam crest elevation of 264 feet. An overview of the reservoir dam is provided in Figure 3.

Camanche reservoir is used primarily for flood control, downstream supply, and in-stream flow releases for fish protection. The Mokelumne River Basin flood control requires that 200,000 acre-feet of flood control space be made available in Salt Springs (PG&E), Lower Bear (PG&E), Pardee, and Camanche Reservoirs from November 5 through March 15. At a minimum, Camanche must maintain 130,000 acre-ft of flood control storage; actual volume is dependent on available storage in PG&E's upstream

reservoirs. For downstream supply, flow volume is dependent on the Joint Settlement Agreement water year criteria (e.g., 165.9 thousand acre-feet per calendar year [TAF/CY] for a normal or above-normal water year). Camanche Reservoir supplies a small community water system for approximately 180 permanent residents as well as transient visitors. Camanche Reservoir releases cannot exceed 5,000 cubic feet per second (cfs), the design criteria for downstream levees. Releases are typically maintained below 3,000 cfs to avoid groundwater seepage into downstream agriculture. To support fish protection, the District is required to maintain 28,000 acre-feet of water less than 16.4 °C at Camanche Reservoir through the month of October. This requires the District to preserve colder, often less turbid water at the lower elevations of Pardee Reservoir to release into Camanche Reservoir. This can pose a challenge for water treatment because at times the most treatable water cannot be diverted to the District's WTPs in order to meet this requirement. Camanche Reservoir has a hypolimnetic oxygenation system that has been in operation for over 25 years.

Pardee Reservoir operations aim to reserve space for stormwater and snowmelt runoff during the winter season and to fill the reservoir to capacity by the start of summer. The operating level in Pardee Reservoir is managed using controlled releases based on a balance of projected inflows, water quality objectives, seasonal storage regulations, and spill prevention. While Pardee Reservoir is allowed to spill into Camanche Reservoir, typical operations prioritize planned releases through the power generators and sluicing to prevent overflow from the reservoir. Runoff (typically cold, turbid water) sinks once it enters Pardee Reservoir. The cooler turbid water is moved out of Pardee Reservoir into Camanche Reservoir because the turbines draft from lower elevations of Pardee Reservoir. A maximum of 1,300 cfs can flow through the power generators, and a maximum of 2,490 cfs can be sluiced. There are no set limits for releases, including overflow, from Pardee Reservoir into Camanche Reservoir.

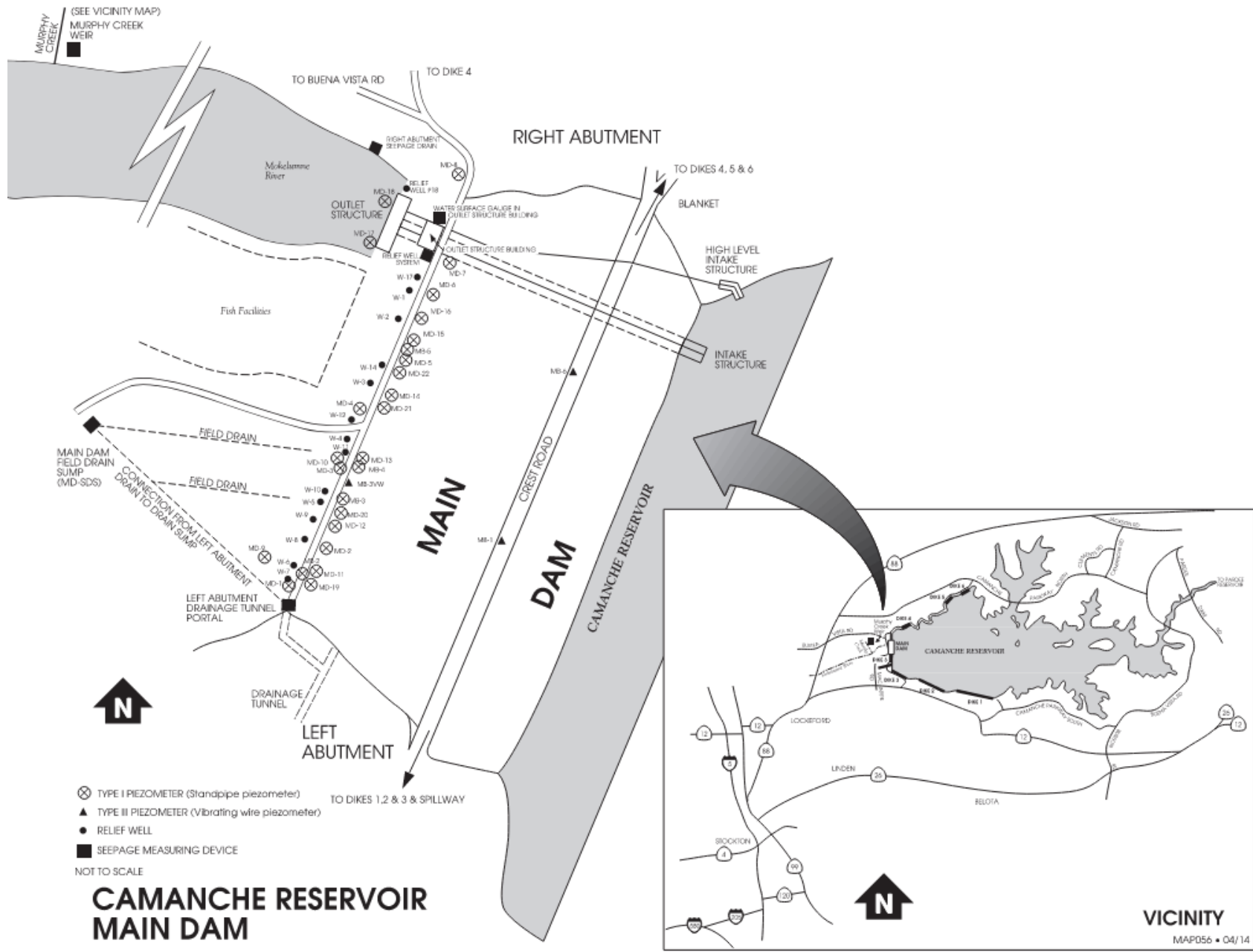
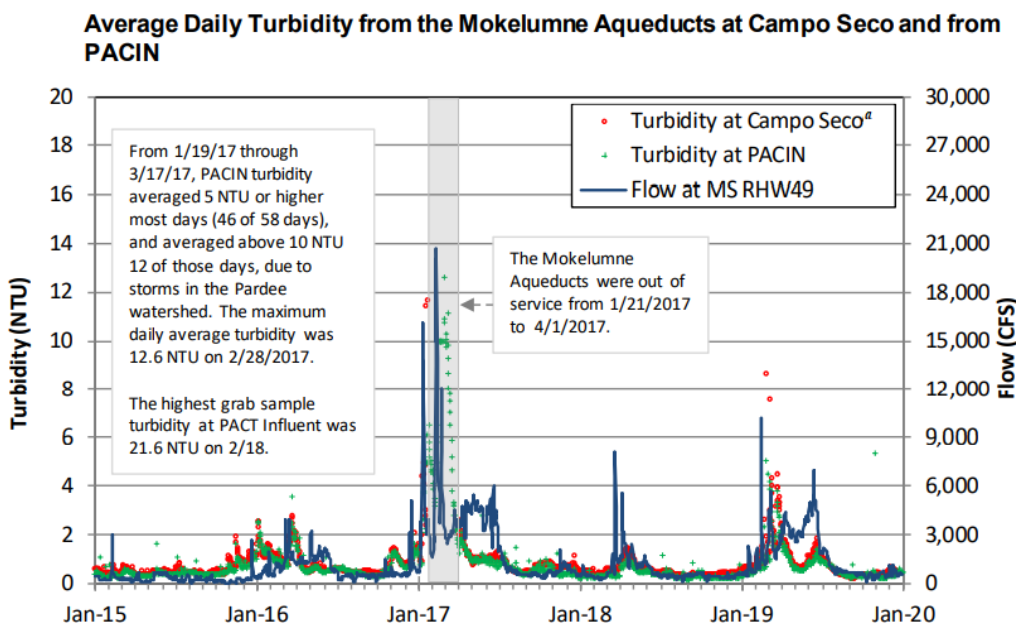


Figure 3. Overview schematic of Camanche Reservoir Dam and Vicinity.

Pardee Reservoir Water Quality:

Pardee staff continuously monitor turbidity and temperature in the reservoir. Due to the unique configuration of Pardee Outlet Tower relative to the power generation facility and spillway, staff can send high-turbidity inflows (undesirable for water treatment) directly out the bottom of the reservoir via the power generation facility and via direct sluicing during high-runoff events. This action preserves the lower-turbidity water near the outlet tower. While often successful, this strategy is limited under certain operational conditions, and its efficacy can be hindered by wind mixing turbidity through the reservoir.

Pardee Reservoir has historically been a high-quality drinking water source, with low turbidity, low organic carbon, and low alkalinity. During most of the year, inline filtration (without flocculation or sedimentation) is sufficient to treat the raw water (effluent turbidity of less than 0.1 NTU). From 2015 to 2019, median turbidity near the outlet tower (at the sampling location labelled PACIN) was 0.52 NTU. However, periodic turbidity spikes (in excess of approximately 10 NTU) can challenge inline WTPs. Because of heavy precipitation in January and February 2017 following a period of drought, the Mokelumne Aqueducts were shut down from January 21 to April 1, after turbidity rose above and was sustained above 10 NTU. At one point during this shutdown, turbidity exceeded 20 NTU at PACIN. Inline WTPs were supplied with water from Briones Reservoir during this time. This period was the longest recorded shutdown of the Mokelumne Aqueducts for a water-quality event. See Figure 4 for a time series of average daily turbidity at PACIN.



a) Campo Seco is at the end of the Pardee Tunnel on the Mokelumne Aqueducts, almost two miles downstream of the shaft pump where Aqueduct Tunnel grab samples are collected. Unlike the grab sample location, Campo Seco is downstream of lime addition.

Figure 4. A time series of average daily turbidity readings from online analyzers at Campo Seco at the start of the Mokelumne Aqueducts and at PACIN, which is generally representative of water quality near the Pardee Outlet Tower. Also shown is flow into the reservoir from the Mokelumne River.

Water quality can also be affected by high wind events and increased flow through the Mokelumne Aqueducts, as previously settled particulates are reincorporated into the water. Operations has observed a small spike in turbidity when ground-level wind induces mixing on the reservoir surface and when pumps are turned on to increase flow. The increased TOC loading during these events also causes increased trihalomethane formation in the distribution system.

Other emerging water quality concerns are algal blooms and wildfire impacts. Relatively high (compared to historical data) dolichospermum counts (>140,000 cells/100 mL) have recently been observed in Pardee. Although a subsequent taste and odor problem was not observed, there is a potential for harmful algal blooms (HABs) to occur. HABs can generate taste and odor issues or in some cases release cyanotoxins, as has occurred at other West Coast utilities. The 2015 Butte Fire burned 12,000 acres (approximately 3 percent) of the watershed, but minimal effects of the fire were observed in additional monitoring (for metals, organics, and total organic carbon). The 2021 Caldor Fire and 2022 Electra Fire were similar near misses. As climate change continues to increase the frequency of extreme weather, however, it is likely that a fire will affect larger swaths of watershed land closer to Pardee Reservoir, causing degradation of water quality that will impair the District's ability to treat Pardee water at its inline WTPs.

Briones Reservoir & Dam Description:

Briones Reservoir is a 60,510-acre-foot raw water or terminal reservoir located in Contra Costa County. The reservoir was constructed in 1964 on Orinda sediments and Briones Sandstone. The reservoir dam is a zoned-rolled earthfill embankment dam with an upstream compacted-clay core. Crest elevation varies from 597 feet at the ends to 605 feet in the center. An overview of the reservoir dam is shown in Figure 5.

Briones Reservoir has a surface area of 735 acres at the spillway crest and a watershed area of 8.6 square miles. On average, Briones Reservoir contains 75 percent Pardee Reservoir water and 25 percent local runoff from its 5,500-acre watershed. Water elevation ranges from 564 to 574 feet. The outlet tunnel is connected to the base of the inlet/outlet tower through the left abutment.

Briones Tower was constructed in 1965 and serves as the single inlet and outlet tower for the reservoir. It is located approximately 250 yards upstream of the embankment of the Briones Reservoir. The tower is 230 feet high with 60-inch butterfly valves operated by hydraulic lines from the top of the tower at seven levels (546 feet, 520 feet, 496 feet, 470 feet, 445 feet, 420 feet, and 382 feet). The internal diameter of the tower varies from 20 feet at the base to 10 feet at the top.

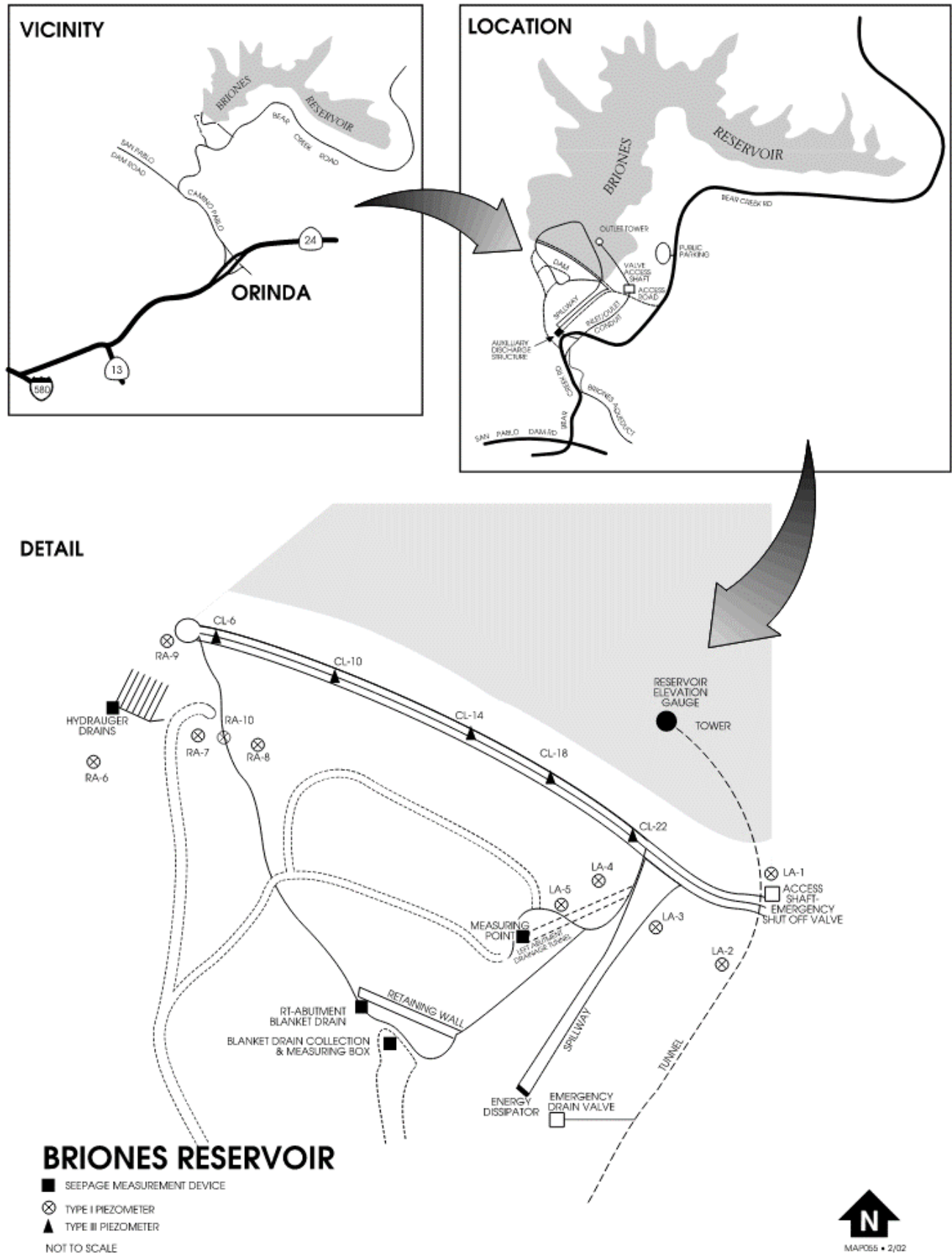


Figure 5. Overview of Briones Dam and Vicinity

Briones Reservoir Operations:

Briones Reservoir is filled from a combination of local runoff and Pardee Reservoir water via the Mokelumne Aqueducts that transition into Lafayette Aqueducts Nos. 1 and 2, each 108 inches in diameter. The Lafayette Aqueducts supply Walnut Creek and Lafayette WTPs before supplying Orinda WTP and Briones Reservoir. Briones No. 2 Pumping Plant (60 MGD) takes suction from Lafayette Aqueduct No. 2 to fill Briones Reservoir via the 90-inch Briones Aqueduct. The inlet-outlet works are generally operated by drafting up to 85 MGD (132 cfs) from the reservoir or pumping up to 45 MGD (70 cfs) into the reservoir. The large-diameter appurtenances that control the flow into and out of Briones Reservoir are part of the Briones Diversion Works.

Briones Reservoir is typically used to augment raw water supply for Orinda WTP during (1) high-demand periods when gravity flow is insufficient to meet demands, (2) drought operations when flows are restricted from Pardee Reservoir, and (3) poor water quality events at Pardee Reservoir when higher-quality water stored in Briones can be used to blend down the Pardee Reservoir supply. Briones Reservoir supplies Orinda WTP via the 90-inch Orinda Aqueduct and is typically blended with water from Pardee Reservoir at Briones Center. Briones Reservoir is also able to reverse flow or back feed into Lafayette Aqueduct No. 2 to supply Lafayette and Walnut Creek WTPs during emergencies, although this mode of operation is rare. Most recently, Briones Reservoir was used to supply Walnut Creek WTP and Lafayette WTP from January 2017 to March 2017 due to poor water quality at Pardee Reservoir (turbidity 10 to 20 NTU) during an Orinda WTP outage. Flow from Briones can also be spilled into San Pablo Creek, which drains into San Pablo Reservoir, one of the District's raw water reservoirs. When possible, the District fills Briones during cooler weather, when electricity rates and production demands are lower. Therefore, using Briones water for "peaking" at the Orinda WTP is significantly less expensive compared to operating the raw water pumps on the Mokelumne Aqueducts.

Folsom South Canal Connection:

In 2011, the Folsom South Canal Connection (FSCC) was put into service as a supplementary drought supply for the District. FSCC is able to divert up to 100 MGD of Sacramento River water into the District's raw water supply during drought conditions. Sacramento River water is first pumped through the Freeport Regional Water Authority intake and joint pipeline into the Folsom South Canal. The water is drawn out of the canal via Clay Station Pumping Plant (100 MGD), where it is chlorinated to protect against invasive fish species small enough to pass through the screens, into the 4 MG Camanche Equalization Tank. The water then travels to the Mokelumne Aqueducts via Camanche Pumping Plant (100 MGD). FSCC water can be pumped into all three Mokelumne Aqueducts but is typically pumped into either Mokelumne Aqueducts Nos. 1 and 2 or Mokelumne Aqueduct No. 3, while Pardee water continues to flow down the other aqueduct(s) to serve the inline WTPs.

The District is permitted to convey FSCC water to USL Reservoir and San Pablo Reservoir, where it mixes with the existing water stored in these reservoirs and is subsequently treated at USL and Sbrante conventional WTPs. During the 2015 drought, the District received temporary approval from the California State Water Resources Control Board's Division of Drinking Water (DDW) to treat FSCC water at the inline WTPs after pilot testing. When FSCC water was treated at Walnut Creek WTP and then blended with treated Pardee water from September 14, 2015, to October 14, 2015, the District received 242 customer taste and odor complaints despite meeting all primary drinking water standards. Plant effluent combined 2-methylisoborneol (MIB) and geosmin concentration averaged 12.5 ng/L. Under temporary approval from DDW, the District also conveyed FSCC water to Briones Reservoir in late 2015. Conventional treatment of FSCC water stored in USL and San Pablo Reservoirs produced good-quality drinking water that did not cause a significant increase in taste and odor complaints within their respective service areas. USL and Sbrante WTPs currently have ozone systems that can reduce taste and odor compounds in the raw water.

Briones Reservoir Water Quality:

Briones Reservoir has historically been a high-quality water source due to high import (average 75%) from Pardee Reservoir and relatively little runoff from its 5,500-acre watershed. Median turbidity of water collected from the reservoir outlet tower and the Briones Aqueduct Tap (also referred to as BRAQ) at Orinda WTP from 2015 to 2019 was 0.86 NTU. Most recreation at the reservoir is prohibited, except for rowing practice for local collegiate teams and hiking along trails. Unlike San Pablo and Pardee Reservoirs, Briones is not stocked with fish. On the western bank of Briones Reservoir, the District maintains a 13-acre trench soils disposal site that is cleared approximately every ten years. Runoff from this site is directed toward San Pablo Creek or a sedimentation basin before discharging into Briones Reservoir. The reservoir stratifies annually. There are no urban areas within the Briones watershed.

Briones Reservoir quality has been changing. A recent consultant analysis of District's data showed that gradually (1) lake bottom temperatures have increased, (2) hypolimnetic anoxia duration has increased, (3) relative abundance of diatoms, algae, and euglena have changed, and (4) nutrients have increased. The analysis also found that the increases in microbes, nutrients, and temperature either preceded or were not fully explained by the import of water from FSCC based on a parallel analysis of FSCC water sampling data. Operations has observed that, since 2020, concentrations of MIB and geosmin have increased above the odor threshold in the early spring and summer (Figure 6). MIB and geosmin are typically highest at the surface and over time migrate towards lower reservoir depths closer to the intake gates. Elevated MIB is not always coincident with elevated geosmin, and neither geosmin nor MIB is always coincident with elevated plankton counts. Taste and odor compounds represent a significant challenge for the District given the absence of removal capability at the inline treatment plants.

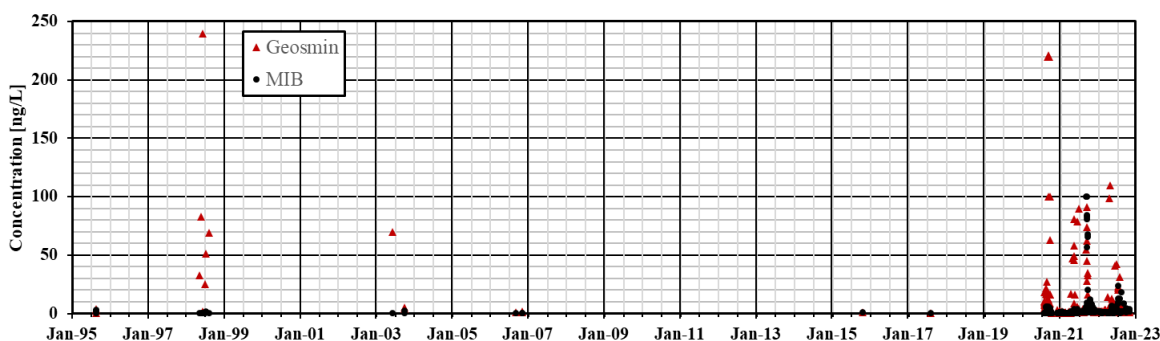


Figure 6. Grab sample data for Geosmin and MIB for Briones Reservoir

The District is currently in discussion with Contra Costa Water District (CCWD) regarding potentially procuring 30,000 acre-feet of drought and emergency supplemental supply from Los Vaqueros Reservoir. This exchange is possible due to a proposed expansion of Los Vaqueros Reservoir from 160,000 acre-feet to 275,000 acre-feet. As part of the agreement, the District will be required to transfer less than 30,000 acre-feet during non-drought conditions; the specific quantity is still under evaluation. The District and CCWD have an existing raw water intertie that can be used for conveyance. If this agreement materializes, the Los Vaqueros water supply may potentially be stored in Briones Reservoir or any of the District's other terminal reservoirs.

Briones Reservoir Monitoring:

Monitoring at Briones Reservoir is driven by regulatory requirements (Title 22) and operational needs. In accordance with state and federal requirements, samples are regularly collected and analyzed for microbial contaminants, inorganic chemicals, SOCs, radionuclides, VOCs, and secondary contaminants. Profile data and grab samples for coliforms are collected monthly at the outlet tower. Additional discretionary sampling for other analytes such as plankton, MIB, geosmin, alkalinity, TOC, and hardness are performed as needed. Operational decisions such as gate elevation selection are made based on relevant water quality data. Recent water quality analyses have shown that the levels of soluble and particulate manganese at various depths in the reservoir have correlated with oxygen levels. Elevated manganese levels in water entering the Orinda WTP can cause significant operational problems.

Unlike Pardee Reservoir, there are no downstream river considerations such as minimum flows or temperatures for Briones Reservoir. The District collects samples at the head of Orinda WTP, but this raw water is often a blend of water from Briones Reservoir and Pardee Reservoir. There is a dedicated Briones Aqueduct tap at the Orinda WTP that is used to monitor Briones water quality separate from other inflows to the plant. This tap is only used when water is being drafted from the reservoir. At other times, samples must be taken directly from the reservoir near Briones Tower.

D. SCOPE OF SERVICES AND DELIVERABLES

The Consultant shall provide technical expertise and support required to complete the following tasks. Each task is a separate technical memo/report to the District. For tasks applicable to both reservoirs, the Consultant may opt to provide a separate technical memo for each reservoir (Pardee Reservoir and Briones Reservoir) or a single technical memo for both reservoirs, with clearly demarcated sections pertaining to either Pardee Reservoir or Briones Reservoir.

Task 1 - Project Management Plan

The Consultant shall provide a sufficiently staffed and well-organized project administration team to manage the project through the entire period of the Contract.

Deliverables:

- *Project Kick-Off Meeting* - The Consultant shall facilitate a meeting with the District to review the overall project management, including discussion of the planned roles and responsibilities, project scope, schedule, budget, project controls processes, deliverables, and workshops. The purpose of the meeting is to create alignment among the key project stakeholders on the project delivery plan, goals, objectives, expectations of all stakeholders, and measurements of success.
- *Work plan* - Provide a work plan during the start of the project that includes an itemized task list, brief task descriptions, milestones, target dates for preliminary and final submittals, and completion dates. The work plan must also clearly show how the Consultant proposes to conduct parallel studies, data analyses, design, and reports (see following Tasks) for Briones Reservoir and Pardee Reservoir. The work plan must be updated by the Consultant quarterly.
- *Quality Assurance/Quality Control Plan* - The Consultant shall develop a Quality Management Plan. All work products shall be reviewed prior to submission to the District and documentation of all reviews shall be provided with each submission.
- *Progress Meetings* – The Consultant shall conduct weekly or biweekly progress teleconferences with District staff. Meetings shall include a review of progress; discussion of items requiring feedback; list of outstanding issues requiring resolution; status of scope, schedule, and budget; and review of risks. Meetings shall be managed by the Consultant. See *Meeting Agendas and Minutes*, below.
- *Progress Reports* - The Consultant shall prepare and submit a monthly progress report. Monthly reports shall be clear and concise to facilitate quick understanding of key project achievements, status, and critical issues. The monthly progress report shall include:

- An assessment of actual versus planned progress in completing the Scope of Services, including a description of the tasks and deliverables completed to date.
- For each task, the percentage of services performed versus the percentage of fees incurred for such task, and an explanation of any significant variances in percentage of services performed compared to percentage of fees incurred.
- For each task, the percentage of the fees incurred for the task compared to dollar amount allocated to the task.
- A look-ahead schedule listing deliverables and activities planned for the next month.
- A summary of proposed changes to the Scope of Services including justifications for changes.
- Action Items and Decision Log: This log shall document action items and Project concerns and issues throughout the Agreement duration which require resolution by the District and/or the Consultant.
- *Monthly Invoices* - The Consultant shall prepare a monthly invoice which includes a full accounting of all staff, number of hours, loaded hourly rate, sub-consultants, and other direct costs organized by individual scope.
- *Meeting Agendas and Minutes* – The Consultant shall provide the agenda for all meetings at least three (3) business days prior to each meeting and meeting minutes within three (3) business days after each meeting. The minutes shall focus on decisions made and open action items.

Task 2 – Review of Existing Data and Emergency Reservoir and Treatment Response Plan for Pardee Reservoir and Briones Reservoir

The Consultant shall review the existing water quality data, inflows, reports, watershed characteristics, reservoir characteristics (physiography, morphometry, and bathymetry), District operations, and drawings that are relevant to Pardee Reservoir and Briones Reservoir. The Consultant shall prepare a brief summary of the mitigation strategies or tools for Pardee Reservoir and Briones Reservoir as well as for inline WTPs if there is an event (described in the following paragraph) that renders the water untreatable via the District's current inline WTPs. The recommended mitigation tools shall be flexible enough for intermittent use and rapid mobilization (<5 working days). The District will provide a description of typical operations through existing water supply reports and a discussion with the Operations Division. The response plan shall also detail any emergency monitoring that will enable the District to respond to any downturns in water quality. This task may require some data analysis further described under Task 3.

The emergency interim mitigation and monitoring should address the following scenarios:

- Wildfire: A large-scale, approximately 200,000-acre-foot wildfire in the reservoir's watershed that adversely impacts turbidity, TOC, nutrients, metals, and general water quality.
- Heavy Runoff: An extended 6-month high turbidity event (>5 NTU) after a heavy rainstorm that has significant impacts to both filtration and disinfection byproducts
- Algal Bloom: A large-scale algal bloom that impacts filterability, introduces cyanotoxins into the raw water, or causes taste and odor issues (geosmin >5 ng/L and MIB >5 ng/L)

The emergency response plans shall include a discussion of the probability of the event affecting the watershed or reservoir, estimated recovery periods for reservoir and runoff water quality to return to pre-event conditions, and interim solutions that can be implemented pre- and post-event within Pardee Reservoir and Briones Reservoir (e.g., for wildfires: silt curtain, alum spreading, lamella plates, inflatable dams, mixing strategies) and inline WTPs (e.g., packaged treatment systems). The report shall document the costs, benefits, application notes, lead times, level of effort in full-time equivalents (FTE), typical design details, coordination required, and limitations of each technology discussed. The plan shall also include a summary of typical modes of reservoir and inline water treatment plant operation.

Deliverables:

- *Task 2.1 – Interim reservoir mitigation*
 - A) *Reservoir Operation Workshop* – The Consultant shall work with District staff to understand and summarize existing operation of Pardee Reservoir and Briones Reservoir. The Consultant shall conduct the workshops at a District facility to gather input from and present recommendations to various District staff, departments, and other stakeholders. Prior to each workshop, the Consultant shall coordinate closely with District staff to formulate their recommendations.
 - B) *Emergency Response Plan for Reservoir Water Quality* – The Consultant shall present their emergency response plan to District stakeholders prior to finalizing the Emergency Response Plan for Reservoir Water Quality.

- *Task 2.2– Interim inline WTP mitigation*
 - A) *Inline Water Treatment Plant Operation Workshop* – The Consultant shall work with District staff to understand and summarize existing operation of the inline treatment plants
 - B) *Emergency Response Plan for Reservoir and Inline Treatment Plants* – The Consultant shall present their emergency response plan to District stakeholders prior to finalizing the Emergency Response Plan for Reservoir and Inline Treatment Plants.

Task 3 – Data Analysis Report for Pardee Reservoir and Briones Reservoir

Based on the comprehensive review of existing data as specified under Task 2 and existing watershed management plans, the Consultant shall summarize and analyze the existing water quality data, inflows, reports, watershed characteristics, reservoir characteristics (physiography, morphometry, and bathymetry), District operations, and drawings that are relevant to Pardee Reservoir and Briones Reservoir. The Consultant shall perform appropriate statistical analyses on the existing data, identify additional data needed to understand the effects of algal blooms and wildfires in Pardee Reservoir, identify additional data needed to understand the recent increase of MIB and geosmin concentrations in Briones Reservoir, and describe observed and potential water quality issues at the reservoirs beyond these identified water quality issues. The Consultant shall also evaluate the current and foreseeable watershed management improvement efforts that may improve water quality and then determine if existing vulnerabilities require engineered alternatives. The reports and water quality data that need to be analyzed and reviewed include, but are not limited to, the following:

1. *Reservoir Water Quality Profile Data 2010 to Present*: Profile data from 2010 to present that are collected near reservoir intake towers. The profile data include: temperature, specific conductivity, dissolved oxygen, pH, turbidity, chlorophyll, and BGA-PC.
2. *Walnut Creek, Lafayette, and Orinda WTP Raw Water Quality Data*: Data from raw water samples collected at the plants or directly from the reservoirs that are analyzed daily, weekly, or monthly for parameters such as turbidity, pH, temperature, alkalinity, TOC, dissolved organic carbon (DOC), geosmin, MIB, manganese, nitrate, nitrogen, chlorophyll, total phosphate, orthophosphate, algae, total coliform, E. coli, and other relevant water quality parameters that are stored in the District water quality database.
3. *Drawings*: Existing drawings for Pardee Reservoir and Briones Reservoir and their intake towers.

4. *Pardee and Briones Reservoir Water Balance: Reservoir Record of Operation from 2010 to 2022.*
5. *Reports:*
 - a. East Bay Watershed Fire Management Plan (2000)
 - b. Upper San Leandro Reservoir Hypolimnetic Oxygenation Operating and Maintenance Manual (October 2001)
 - c. Upper San Leandro Hypolimnetic Oxygenation System (HOS) Performance Evaluation Report (2002)
 - d. Upper Mokelumne River Watershed Assessment and Planning Project Watershed Management Plan, Technical Memorandum No. 10 (July 2007)
 - e. Mokelumne Watershed Master Plan (April 2008)
 - f. Mokelumne Watershed Fire Management Plan (December 2011)
 - g. Raw Water Master Plan (May 2014)
 - h. Mokelumne Watershed Avoided Cost Analysis: Why Sierra Fuel Treatments Make Economic Sense (2014)
 - i. District Policy 9.01 Fire Control and Fuels Management on Watershed Lands (April 2016)
 - j. Key Factors Influencing the Production of Taste & Odor Compounds and Soluble Manganese in San Pablo Reservoir (November 2016)
 - k. Reduction of Taste and Odor Compounds and Soluble Manganese in San Pablo Reservoir (December 2017)
 - l. East Bay Watershed Master Plan (2018)
 - m. East Bay Watershed Sanitary Survey (2019 Update)
 - n. Mokelumne River Watershed Sanitary Survey (2020 Update)

Deliverables:

- *Data Analysis Workshop* – The Consultant shall conduct a workshop at a District facility to present their analysis and gather input from various District staff, departments, and other stakeholders before finalizing the Data Analysis Report. Prior to the workshop, the Consultant shall coordinate closely with District staff and provide regular updates of their analysis results.

- *Data Analysis Report* - A technical memorandum summarizing the existing data, water quality data, and the analyses performed to identify the likely sources of geosmin and MIB in the Briones Reservoir and the key factors and variables that influence their formation. The Consultant shall also identify and summarize data that highlight the main water quality issues that affect Pardee Reservoir. The Consultant shall prepare a summary of key data gaps for the project. The report shall also identify existing tools/models that could be readily employed by the District to monitor and predict water quality events.

Task 4 – Long-term Water Quality Improvement Alternatives Evaluation Report for Pardee Reservoir and Briones Reservoir

Based on the results of Task 2 & 3, including confirmation that engineering alternatives are required to improve reservoir water quality, the Consultant shall develop alternatives and evaluate their expected effectiveness in improving water quality in Pardee Reservoir and Briones Reservoir. The Consultant shall evaluate in-reservoir treatment alternatives such as aeration and oxygenation as well as other appropriate measures that are effective in improving water quality. Pros and cons of each alternative, as well as its estimated capital costs, operation and maintenance costs, and construction/ implementation schedule, must be included in the evaluation of alternatives. The Consultant shall recommend preferred alternative solution(s) to address MIB and geosmin, elevated turbidity, harmful and nuisance algal blooms, wildfire risks, methyl mercury, and other water quality concerns agreed upon with stakeholders after the District reviews Task 2 & 3 deliverables.

Deliverables:

- Task 4.1 - Long-term Water Quality Improvement Alternatives Evaluation Report for Briones Reservoir
 - *Alternatives Evaluation Workshop* – The Consultant shall conduct a workshop at a District facility to present the results of Task 4 and gather input from various District staff, departments, and other stakeholders before finalizing the Alternatives Evaluation Report for Briones Reservoir. Prior to the workshop, the Consultant shall coordinate closely with District staff to formulate their alternatives.
 - *Alternatives Evaluation Report* - A technical memorandum that reviews and evaluates the potential alternatives to reduce geosmin, MIB, turbidity, manganese, harmful and nuisance algal blooms, and wildfire risks in Briones Reservoir and recommends the preferred alternative(s).

- Task 4.2 - Long-term Water Quality Improvement Alternatives Evaluation Report for Pardee Reservoir
 - *Alternatives Evaluation Workshop* – The Consultant shall conduct a workshop at a District facility to present the results of Task 4 and gather input from various District staff, departments, and other stakeholders before finalizing the Alternatives Evaluation Report for Pardee Reservoir. Prior to the workshop, the Consultant shall coordinate closely with District staff to formulate their alternatives.
 - *Alternatives Evaluation Report* - A technical memorandum that reviews and evaluates the potential alternatives to reduce geosmin, MIB, turbidity, manganese, harmful and nuisance algal blooms, and wildfire risks in Pardee Reservoir and recommends the preferred alternative(s).

Task 5 - Preliminary Design Report for the Preferred Capital Improvement Alternative for Briones Reservoir

Based on the results of Task 4, the Consultant shall develop a preliminary 10% design for the selected alternative capital solution, including conceptual equipment layout and sizing of any new facilities that will be required to improve water quality at the reservoir based on priorities agreed upon with the District. This RFP assumes that a capital improvement will be recommended by the Consultant and approved by stakeholders. The Consultant shall develop the pre-design to the point where the feasibility is confirmed, the scope is well defined, and costs can be accurately estimated. The Consultant shall prepare a preliminary design technical memo for the proposed facilities based on the design criteria and facility layouts agreed upon by the District. The preliminary design technical memo shall include civil site plans; equipment layouts showing pumps, pipes, large valves, major electrical equipment, and major control programs; yard piping, process and instrumentation diagrams (P&IDs); electrical duct bank layout; electrical one-line diagram; communications strategy; design criteria tables; California Environmental Quality Act (CEQA) strategies; preliminary list of drawings and specifications; a radio path survey; and general descriptions of the facilities and operation. Note that it is assumed that capital improvements will be required at Briones Reservoir due to the known seasonal stratification and subsequent formation of soluble manganese and re-solubilization of nutrients from the sediment. The Consultant can propose additional capital improvements at Pardee Reservoir and provide preliminary design as an optional service (See Task 11).

The Consultant shall prepare an estimate of probable construction costs of the facility. Accuracy of the cost estimate shall conform to Association for the Advancement of Cost Engineering (AACE) International Recommended Practice 17R-97, Class 4.

Deliverables:

- *Preliminary Design Workshop* – The Consultant shall conduct a workshop at a District facility to present the results of Task 5 and gather input from various District staff, departments, and other stakeholders before finalizing the Preliminary Design Report. Prior to the workshop, the Consultant shall coordinate closely with District staff to formulate their design.
- *Preliminary Design Report* - A technical memorandum with findings and recommendations, preliminary facility layout, sizing, and construction cost estimate as described above.

Task 6 – Water Quality Monitoring Plan for Pardee Reservoir and Briones Reservoir

The Consultant shall review the existing monitoring programs of each reservoir and recommend improvements for a long-term water quality monitoring plan tailored for each reservoir. This plan will enable the District to build a robust water quality data set and aid in the early warning of sudden downturns in water quality. The plan shall include a discussion regarding the necessity, location, and appropriate probes for automated water quality profilers (autoprofilers) if this is determined beneficial by the Consultant and the District. The plan shall also discuss the anticipated effects of supplemental water supply (e.g., FSCC and Los Vaqueros Reservoir) on Briones Reservoir water quality, as well as any additional monitoring that should be completed prior to, during, and after the District receives inflow from supplemental supply. The plan shall also include sampling required to monitor the effectiveness of the proposed capital improvement in Task 5.

Deliverables:

- *Water Quality Monitoring Plan Workshop* – The Consultant shall conduct a workshop at a District facility to present the results of Task 6 and gather input from various District staff, departments, and other stakeholders before finalizing the Water Quality Monitoring Plan. Prior to the workshop, the Consultant shall coordinate closely with District staff to formulate their plan.
- *Water Quality Monitoring Plan* - A technical memorandum describing the monitoring plan that includes: sample frequency, sample locations, sample collection methodology, methods of analysis, ancillary data collected (e.g., pH, temperature, water level, dissolved oxygen), types of data analyses, staffing requirement(s) and annual cost, and responsibilities to implement the plan. A justification for inclusion of each data type must be part of this plan.

Task 7 – Emergency Wildfire Watershed Response Plan for the Mokelumne Watershed

The Consultant shall develop an emergency response plan in close coordination with District stakeholders for a catastrophic fire that affects water quality in the Mokelumne Watershed. The emergency response plan shall categorize impacts based on the fire intensity and different watershed conditions (e.g., land use, topography, proximity to Pardee Reservoir, geomorphology) and prescribe specific mitigations for these impacts post-fire. For each mitigation measure, the Consultant shall provide cost, level of effort in FTE, lead time, typical design details (if applicable), best management practices, implementation notes, and coordination requirements. The Consultant shall present their response plan to District stakeholders for review prior to inclusion in the Emergency Watershed Response Plan.

- *Emergency Watershed Response Plan Workshop* - The Consultant shall conduct a workshop at a District facility to present their recommendations and gather input from various District staff, departments, and other stakeholder before finalizing the report. Prior to the workshop, the Consultant shall coordinate closely with District staff to formulate their recommendations.
- *Emergency Wildfire Watershed Response Plan* – The Consultant shall provide a comprehensive summary of wildfire impacts on Mokelumne Watershed and specific mitigation measures post-fire that have been reviewed and approved by District stakeholders. The plan shall function as a practical and comprehensive guide for Operations to be used during wildfire emergencies.

Task 8 – Final Report for Pardee Reservoir and Briones Reservoir

The Consultant shall summarize the findings under all previous tasks and provide the District with recommendations that address the identified water quality issues in each reservoir.

Deliverable:

- Final report summarizing the key findings of previous tasks with a set of recommendations. This report shall also outline the estimated labor effort to implement the recommendations in FTEs and the likely time frame for measurable improvements in the reservoirs.

Optional Tasks

Optional Task 9 – Additional Short-term Water Quality Monitoring and Data Analysis for Pardee Reservoir and Briones Reservoir

During Task 3, if the Consultant and the District agree that additional water quality data are needed to complete Tasks 3 or 4, the Consultant shall develop a short-term water

quality monitoring plan. The District shall implement this monitoring plan and perform the required water quality analytical work. The Consultant shall do the data analyses and summarize the results.

Deliverables:

- *Water Quality Data Analysis Workshops* – The Consultant shall conduct a workshop at a District facility to present the monitoring work plan with staffing requirement(s) and gather input from various District staff, departments, and other stakeholders before finalizing the study procedure. After the monitoring is completed, the Consultant shall conduct another workshop at a District facility to present the results of Task 9 and gather input from various District staff, departments, and other stakeholders before finalizing the Water Quality Monitoring Report.
- *Water Quality Monitoring Report* – A technical memorandum summarizing the results of the water quality monitoring that include the following information and analyses: number of samples collected, location of the monitoring points, analyses performed, data summary, problems encountered, graphical and statistical analyses of the data collected to date, and the monitoring impact on completion of Task 3 and 4.

Optional Task 10 – Reservoir Studies

During Task 3, if the Consultant and the District agree that additional studies (e.g., sediment nutrient and gas flux studies, benthic surveys, bathymetric surveys, hydrodynamic modeling) are warranted to better characterize Pardee and/or Briones Reservoir(s), the Consultant shall provide a detailed work plan summarizing the objective, plan, schedule, and cost proposal for each proposed study. The Consultant shall implement the plan, complete the data analysis, and present the findings of the study to the District via a workshop and report. The District reserves the right to perform portions of the work if the work description fits into existing job classes and pending staff availability.

Deliverables

- *Reservoir Studies Workshop* – The Consultant shall conduct a workshop at a District facility to present the study work plan and gather input from various District staff, departments, and other stakeholders before finalizing the study procedure. After the study is completed, the Consultant shall conduct a second workshop at a District facility to present the results of Task 10 and gather input from various District staff, departments, and other stakeholders before finalizing the report.
- *Reservoir Studies Report* – A technical memorandum summarizing the results of the study that include the following information and analyses: purpose, methodology, data collected, interpretation of the study data, any models generated as part of the

study, limitations of the study, conclusions, and relevance to the District and the completion of Task 4.

- *Pardee Reservoir Predictive Model* – A model that summarizes the hydrodynamics of Pardee Reservoir and makes predictions on turbidity levels relative to depth based on inflow flow rate, inflow turbidity, wind speed, and water temperature.

Optional Task 11 – Preliminary Design Report for the Preferred Capital Improvement Alternative(s) for Pardee Reservoir

Based on the results of Tasks 2 and/or 3, the Consultant shall develop a preliminary 10% design for the selected alternative capital solution for Pardee Reservoir, including conceptual equipment layout and sizing of any new facilities that will be required to improve water quality at the reservoir based on priorities agreed upon with the District. The Consultant shall develop the pre-design to the point where the feasibility is confirmed, the scope is well-defined, and costs can be accurately estimated. The Consultant shall prepare a preliminary design technical memo for the proposed facilities based on the design criteria and facility layouts agreed upon by the District. The preliminary design technical memo shall include civil site plans, equipment layouts showing pumps, pipes, large valves, major electrical equipment, and major control programs, yard piping, process and instrumentation diagrams (P&IDs), electrical duct bank layout, electrical one-line diagram, communications strategy, design criteria tables, CEQA strategies, preliminary list of drawings and specifications, a radio path survey, and general descriptions of the facilities and operation.

The Consultant shall prepare an estimate of probable construction costs of the facility. Accuracy of cost estimate shall conform to Association for the Advancement of Cost Engineering (AACE) International Recommended Practice 17R-97, Class 4.

Deliverables:

- *Preliminary Design Workshop* – The Consultant shall conduct a workshop at a District facility to present the results of Task 11 and gather input from various District staff, departments, and other stakeholders before finalizing the Preliminary Design Report.
- *Preliminary Design Report* - A technical memorandum with findings and recommendations, preliminary facility layout, sizing, and construction cost estimate as further described above.

Preliminary Project Schedule

<i>Event/Deliverables</i>	<i>Date</i>
Contract Start	March 2023
Task 1 – Project Management Plan	April 2023
<i>Event/Deliverables</i>	<i>Date</i>
Task 2 – Review of Existing Data and Emergency Reservoir and Treatment Response Plan for Pardee Reservoir and Briones Reservoir	August 2023
Task 3 – Data Analysis Report for Pardee Reservoir and Briones Reservoir	September 2023
Task 4 – Long-term Water Quality Improvement Alternatives Evaluation Report for Pardee Reservoir and Briones Reservoir	November 2023
Task 5 – Preliminary Design Report for the Preferred Capital Improvement Alternative for Briones Reservoir	January 2024
Task 6 – Water Quality Monitoring Plan for Pardee Reservoir and Briones Reservoir	April 2024
Task 7 – Emergency Wildfire Watershed Response Plan for the Mokelumne Watershed	July 2024
Task 8 – Final Report for Pardee Reservoir and Briones Reservoir	August 2024
Task 9 (Optional) – Additional Short-term Water Quality Monitoring and Data Analysis for Pardee Reservoir and Briones Reservoir	TBD
Task 10 (Optional) – Reservoir Studies	TBD
Task 11 (Optional) – Preliminary Design Report for the Preferred Capital Improvement Alternative(s) for Pardee Reservoir	TBD

II. CALENDAR OF EVENTS

EVENT	DATE/LOCATION
RFP Issued	February 2, 2023
Last Date for Questions/Clarification	March 9, 2023
Response Due	March 16, 2023 by 4:00 p.m.
Anticipated Contract Start Date	End of April 2023

Note: All dates are subject to change by the 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 shall 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:

Evaluation Criteria:	
A.	Implementation Plan and Schedule: An evaluation will be made of the likelihood that the Proposer's implementation plan and schedule shall meet the District's schedule. The implementation plan shall also describe how the Proposer plans to complete technical memos for two different reservoirs. 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.
B.	Relevant Experience: RFP responses will be evaluated against the RFP specifications and the questions below: <ol style="list-style-type: none"> 1. Do the individuals assigned to the project have experience on similar projects? 2. Are résumés complete and do they demonstrate backgrounds that are desirable for individuals engaged in the work the project requires? How extensive is the applicable education and experience of the personnel designated to work on the project?
C.	References (See Exhibit A – RFP Response Packet): 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.

D.	<p>Oral Presentation and Interview (if interviews are required): The oral interview may consist of standard questions asked of each of the Proposers and specific questions regarding the specific RFP response. Interviews will be conducted at the discretion of the District based on the number of acceptable proposals.</p>
E.	<p>Understanding of the Project: RFP responses will be evaluated against the RFP specifications and the questions below:</p> <ol style="list-style-type: none"> 1. Project Understanding (i.e., does the proposal reflect the correct level of effort? Is the proposal applicable to conditions in Pardee Reservoir and Briones Reservoir?); 2. Realism (i.e., is the proposed cost appropriate to the nature of the products and services to be provided?); 3. Has the Proposer demonstrated a thorough understanding of the purpose and scope of the project? 4. How well has the Proposer identified pertinent issues and potential problems related to the project? 5. Has the Proposer demonstrated that it understands the deliverables the District expects it to provide? <p>Has the Proposer demonstrated that it understands the District's time schedule and can meet it?</p>
F.	<p>Methodology: RFP responses will be evaluated against the RFP specifications and the questions below:</p> <ol style="list-style-type: none"> 1. Does the methodology depict a logical approach to fulfilling the requirements of the RFP? 2. Does the methodology match and contribute to achieving the objectives set out in the RFP? 3. Does the methodology interface with the District's time schedule?
G.	<p>Contract Equity Program Compliance: 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>

Consultant proposals will be evaluated and selected on how well the consultant understands and responds to the District's project objectives as described generally in this Request for Proposal. In addition to the above Evaluation Criteria, selection will be based on, but not limited on the following key issues:

- A. Demonstrate that your firm possesses adequate resources, expertise, and successful experience on similar projects. Identify any sub-consultants, highlighting their relevant experience. Identify consultant and sub-consultant key personnel. Include brief resumes of key personnel, who will actively participate, highlighting experience relevant to this project.
- B. A clear and concise project approach which demonstrates a thorough understanding of the project, and contains well defined tasks and work flow for achieving the project's objectives including project milestones.
- C. Include Level of Effort and Labor Rates for all personnel. In spread sheet format, show estimated labor hours for each prime and sub consultant job classification for the entire proposed scope of work. Labor rates and level of effort need not be estimated for tasks designated as optional services. Show the actual salary rates for each of the job classifications used in the estimate.

On a separate document, identify direct labor and cost multipliers (overhead rate and professional fee) for both prime consultant and sub consultants. Indicate sub consultant markups. The prime consultant's markup of all sub consultant costs shall consist of a fixed percentage of those costs. No additional markup shall be allowed for second or third tier sub consultants. No compounding of markups shall be allowed and no markup shall be allowed on other direct expenses.

- D. The cost estimate provided will be the basis for the final contract negotiation with the selected firm.
- E. Comply with the District's Contract Equity Program (CEP) as described in the Guidelines contained in Exhibit A. Discuss how the proposed project team intends to comply with the requirements of the District's CEP, as described in the guidelines.

C. 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.

D. INVOICING

1. Following the District's 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. Invoices will contain, at a minimum, District purchase order number, invoice number, remit to address, and itemized services description. Provide advance notification at least 3 business days before invoice submission to the District project manager if any wage increases are to be reflected in the invoice.
4. The District will pay General or Professional Service Provider in an amount not to exceed the negotiated amount(s) which will be referenced in the agreement signed by both parties.

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 THIS RFP:

Attn: Chloe Cheok
EBMUD-Design Division
E-Mail: chloe.cheok@ebmud.com
PHONE: (510) 287-0300

FOR INFORMATION ON THE CONTRACT EQUITY PROGRAM:

Attn: Contract Equity Office
PHONE: (510) 287-0114

AFTER AWARD:

Attn: Chloe Cheok
EBMUD-Design Division

E-Mail: chloe.cheok@ebmud.com

PHONE: (510) 287-0300

B. SUBMITTAL OF RFP RESPONSE

1. Late and/or unsealed responses will not be accepted.
2. RFP responses **must** be received only at the address shown below, must be SEALED, and must be received at the District Purchasing Division by 4:00 p.m. on the due date specified in the Calendar of Events. Any RFP response received after that time or date, or at a place other than the stated address cannot be considered and will be returned to the Proposer unopened. All RFP responses must be received and time stamped at the stated address by the time designated. The Purchasing Division's timestamp shall be considered the official timepiece for the purpose of establishing the actual receipt of RFP responses.
3. RFP responses are to be addressed/delivered as follows:

RESPONSE DELIVERED BY SERVICE (UPS, FedEx, DHL, etc.) to: RFP 23-557-01 EBMUD–Design Division 375 Eleventh Street Oakland, CA 94607	RESPONSE DELIVERED BY MAIL (USPS) to: RFP 23-557-01 EBMUD–Design Division P.O. Box 24055 Oakland, CA 94623
----------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------

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

4. Proposers are to submit one (1) original hardcopy RFP response (Exhibit A – RFP Response Packet, including Contract Equity Program forms and all additional documentation stated in the “Required Documentation and Submittals” section of Exhibit A), all with original ink signatures. Please include three (3) additional hardcopies of the RFP.
5. **Proposers must also submit an electronic copy of their RFP response, with their hardcopy RFP response Package.** The file must be on a USB flash drive and enclosed with the sealed original hardcopy of the RFP response. The electronic copy shall be in a single file (PDF) format, and shall be an **exact** scanned image of the original hard copy Exhibit A – RFP Response Packet, Contract Equity Program forms and all additional documentation stated in the “Required Documentation and Submittals” section of Exhibit A.
6. All costs required for the preparation and submission of an RFP response shall be borne by the Proposer.

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

C. RESPONSE FORMAT

1. **Proposers shall not modify any part of Exhibits A, B, C, or D, or qualify their RFP responses. Proposers shall not submit to the District 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 the Pardee Reservoir and Briones Reservoir Water Quality Improvement Study

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”**
 - **EXHIBIT B- INSURANCE FORMS**
- **PROPOSERS THAT DO NOT COMPLY WITH THE REQUIREMENTS AND/OR SUBMIT AN INCOMPLETE RFP RESPONSE MAY BE SUBJECT TO DISQUALIFICATION AND REJECTION OF THEIR RFP RESPONSES.**
- **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 AND/OR EXCEPTIONS OR MAY DEEM THEM UNACCEPTABLE, THEREBY RENDERING THE RFP RESPONSE DISQUALIFIED.**
- **PROPOSERS 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, 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

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.

LABOR DISTRIBUTION

<u>Services(*)</u>	<u>Consultant</u>				<u>Subconsultants</u>					
	<u>Project</u>		<u>Project</u>		<u>Sub. #1</u>			<u>Sub. #2</u>		
	<u>Manager</u>		<u>Eng.</u>	<u>Drafting</u>	<u>Project</u>	<u>Assist.</u>		<u>Project</u>	<u>Assist.</u>	
					<u>Eng.</u>	<u>Eng.</u>	<u>Subtotal</u>	<u>Eng.</u>	<u>Eng.</u>	<u>Subtotal</u> <u>Total</u>

I. Contracted Services

Task 1:
Task 2:
Task 3:
Task 4:
Task 5:
Task 6:
Task 7:

TOTAL

(* Include both Consultant and subconsultant hours. Also, include the percent time commitment for key personnel if a critical issue for success of the project.)



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, abide by the page length recommendations, and clearly label each section of the RFP response with the appropriate title (e.g., Table of Contents, Letter of Transmittal, Key Personnel).

1. **Table of Contents (1 page):** The proposal shall include a table of contents listing the individual sections of the proposal and their corresponding page numbers.
2. **Letter of Transmittal (1-3 pages):** The proposal 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 shall not exceed three (3) pages in length and shall be easily understood.
3. **Project Team (4-5 Pages):** The proposal shall include a complete list of all key personnel associated with the proposal. This list must include all key personnel who will provide consultant services to District staff for this project 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 proposal;
 - (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.
4. **Scope of Work (15-25 pages):** The proposal shall include a clear and complete discussion of each task necessary to complete the project. Using Section I of the RFP as a guide, describe each task and subtask in sufficient detail to present the method of approach. The proposal shall display an understanding of the project, including a clear approach to dealing with any potential constraints or obstacles. The proposal shall include recommendations for alternative ways of performing tasks that may reduce cost or shorten the schedule. The proposal shall discuss the reasons for any changes made to the scope. The proposal shall include all mandatory and optional tasks described in the RFP.

The consultant's proposal shall also include:

1. Recommendations for studies to better characterize the hydrodynamics and water quality of the reservoir that the consultant shall complete once awarded.

2. A summary of water quality issues the consultant proposes to focus on based a review of the information presented in this RFP and the proposed studies completed during the project's duration.
3. Emergency engineering tools/options that the District can evaluate to improve raw water quality and mitigate harmful algal blooms, high turbidity, and wildfires. These technologies shall be suited to reservoir, inline treatment plant, or watershed applications.
4. Capital improvements that the District will evaluate to improve raw water quality and mitigate harmful algal blooms, high turbidity, and wildfires.
5. A summary of previous experience successfully conducting similar work. Please provide a brief background, project objective, summary of the work, and outcomes of the project.

The Proposers are encouraged to recommend additional water quality studies and/or emergency response mitigations, and capital improvements into their proposal based on the reservoir information provided in this RFP. Provide a separate estimate line item for the costs for the additional recommended design and/or study implementation from the cost estimate for the work specified in this RFP.

5. **Implementation Plan (2-4 pages) and Schedule (1-2 page, 11"x17"):** The proposal shall include an implementation plan and schedule. Using the calendar of events as guide, the plan shall include a detailed schedule indicating how the Proposer will ensure adherence to the timetables for services, including identification and mitigation of schedule risks the proposer believes may adversely affect the schedule. The implementation plan shall include a plan for all mandatory and optional tasks described in this RFP.
6. **Project Management (2-3 pages):** The proposal shall include key project management features, including methods for schedule control, budget control, and information about the Proposer's quality control program.
7. **Level of Effort (2-3 pages, 11"x17"):** For each of the mandatory and optional tasks described in this RFP, provide an estimated level of effort for all staff. In spreadsheet format, show estimated labor hours, direct rate, and loaded rate for Proposer's staff, including subconsultants.
8. **References (2 pages):** References MUST demonstrate the successful completion of consulting projects of the same quality and manner as that described in this RFP.
 - a. Proposers must use the templates in the "References" section of this Exhibit A – RFP Response Packet to provide references.
 - b. References must be satisfactory as deemed solely by District. References shall have similar scope, volume, and requirements to those outlined in these specifications, terms, and conditions.

- c. Proposers must verify that the contact information for all references is current and valid.
- d. Proposers are strongly encouraged to notify all references that the District may be contacting them to obtain a reference.
- e. 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.
- f. 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 (i.e. proposal) 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 shall be given to completing Form P-25, "Employment Data and Certification." Any Proposer needing assistance in completing these forms shall contact the District's Contract Equity Office at (510) 287-0114 prior to submitting an RFP response.



REFERENCES

RFP for the Pardee Reservoir and Briones Reservoir Water Quality Improvement Project

Proposer Name: _____

Proposer must provide a minimum of three 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 the Pardee Reservoir and Briones Reservoir Water Quality Improvement Project

Proposer Name: _____

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

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

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

*Print additional pages as necessary



CONTRACT EQUITY PROGRAM & EQUAL EMPLOYMENT OPPORTUNITY

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

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

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

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

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

- 1) Reading and understanding the CEP guidelines.
- 2) Filling out and submitting with your 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: _____

EXHIBIT C

CONSULTING AGREEMENT TEMPLATE FOR REFERENCE ONLY

Revised 6/2/2021

CONSULTING AND PROFESSIONAL SERVICES AGREEMENT FOR EAST BAY MUNICIPAL UTILITY DISTRICT (*Project Title*)

THIS Agreement is made and entered into this _____ day of (*month*), 201__, 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 (*need for project*); and

WHEREAS, DISTRICT has completed (*completed projects that pertain to this project - optional*); and

WHEREAS, CONSULTANT has submitted a proposal to provide consulting services for (*state type - "preparation of planning documents", "preparation of design documents", or "construction management support services"*) for the (*project title*) 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 _____;

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 the engineer 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 computations, drawings, 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. CONSULTANT acknowledges that construction work on public works projects requires DIR registration and is subject to prevailing wage rates and includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work. CONSULTANT certifies that the proposed cost and pricing data used herein reflect the payment of prevailing wage rates where applicable and are complete, current, and accurate.
- 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.
- 3.2 DISTRICT may at its option issue a Notice to Proceed for some or all of the Optional Services tasks described in Exhibit A. Compensation for Optional Services shall be in accordance with the method and amounts described in Exhibit B.

ARTICLE 4 - TERMINATION

- 4.1 This Agreement may be terminated by DISTRICT immediately for cause or upon 10 days written notice, without cause, during the performance of the work.
- 4.2 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.

(Optional)

- 4.3 This Agreement may be terminated by CONSULTANT upon 10 days written notice to DISTRICT only in the event of substantial failure by DISTRICT to fulfill its obligations under this Agreement through no fault of the CONSULTANT.

ARTICLE 5 - PROJECT MANAGERS

- 5.1 DISTRICT designates (*District 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, expenses, claims, suits, and damages, including attorneys' fees, arising out of or pertaining to, or relating to CONSULTANT's, its associates', employees', subconsultants', or other agents' negligence, recklessness 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.

7.2 Insurance Requirements

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

ARTICLE 8 - NOTICES

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.

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:

Director of *(Wastewater Department or Engineering and Construction Department)*

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.

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.

(If this Agreement is to be executed using digital signatures via DocuSign instead of wet signatures, use the following paragraph. Otherwise, delete it.)

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

(If this Agreement is to be executed by having each party wet sign a separate signature page and submitting all signed pages in original format or via scanning for compilation with the final Agreement, use the following paragraph. Otherwise, delete it.)

9.10 Execution in Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original but all of which taken together shall constitute one and the same Agreement.

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.

(NOTE: do not have a page break leaving signatures by themselves—must have at least the “in witness whereof” paragraph on signature page)

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

EAST BAY MUNICIPAL UTILITY DISTRICT

By: _____ Date _____
(Name),
Director of Engineering and Construction or Manager of Support Services

Approved As To Form

By: _____
for the Office of the General Counsel

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

By: _____ Date _____
(Name),
(Title)

EXHIBIT A

East Bay Municipal Utility District (Project Title)

SCOPE OF SERVICES

I. CONSULTANT SERVICES

CONSULTANT shall provide the following:

Contracted Services

(State each task with associated task number; specifically call out any survey work)

Optional Services

(State each task with associated task number)

II. PROJECT SCHEDULE

(List schedule milestones and completion dates)

EXHIBIT B

East Bay Municipal Utility District (Project Title)

COMPENSATION

Compensation for services provided in Exhibit A, SCOPE OF SERVICES, shall be in accordance with the methods and specific amounts described in this Exhibit.

1. DISTRICT shall pay CONSULTANT only the actual costs incurred, subject to the Maximum Cost Ceiling. CONSULTANT certifies that the cost and pricing information used herein are complete, current and accurate. CONSULTANT acknowledges that it will expend public funds and hereby agrees to use every appropriate method to contain its fees and minimize costs under this Agreement.
2. Compensation for CONSULTANT services authorized shall be on a cost reimbursement basis and include Direct Labor, Indirect Costs, Subconsultant Services and Other Direct Costs. Costs to be paid comprise the following:

2.1 Direct Labor

Direct labor costs shall be the total number of hours worked on the job by each employee times the hourly rate for the employee's labor. Hours worked shall be rounded-up to the nearest quarter-hour (0.25) increment. Labor rates shall be based on a normal 8-hour day, 40-hour week.

2.2 Indirect Costs

DISTRICT shall pay CONSULTANT an overhead expense equal to (*insert overhead rate*) percent of labor costs incurred by CONSULTANT.

CONSULTANT acknowledges and agrees that this overhead compensation is in lieu of itemized payments for indirect and overhead expenses which includes, but is not limited to:

- Clerical, word processing and/or accounting work.
- Vehicle usage and mileage between CONSULTANT's office and DISTRICT offices or work locations within DISTRICT service area. For work outside of the DISTRICT's services area, DISTRICT approval to charge for vehicle usage and mileage and other travel expenses must be obtained prior to the expenses being incurred.
- Parking (DISTRICT does NOT provide parking to CONSULTANT in the DISTRICT Administration Building, located at 375 11th Street, Oakland, California. CONSULTANT shall be responsible for parking elsewhere).

- Postage, or for certified or registered mail. Extraordinary postage, overnight delivery, or messenger delivery charges must be approved in advance.
- Routine copying costs for in-house copying.
- Local telephone charges, including cellular phone, modem and telecopier/FAX charges.
- Office space lease.
- Office supplies.
- Computer equipment.
- Computer usage charges.
- Books, publications and periodicals.
- Insurance.
- Miscellaneous hand tools or equipment rental.
- Safety training, seminars or continuing education.
- Utilities.
- Local meals, transportation or other travel charges.
- Inadequately described or miscellaneous expenses.

The above items are illustrative, rather than exhaustive.

2.3 Subconsultant Services

Subconsultant services shall be billed at cost (plus a (*insert rate*) percent markup).

2.4. Other Direct Costs

Other Direct Costs shall be approved by DISTRICT in advance in writing, and shall be billed at cost, without markup. These costs include, but are not limited to the following:

2.4.1. Automobile expenses at (*insert rate*) cents per mile when CONSULTANT is required to travel outside of the DISTRICT's service area. Mileage will NOT be reimbursed for rental car expenses, where the rental agreement specifies unlimited mileage.

2.4.2. DISTRICT will pay for necessary and reasonable travel expenses provided the travel is approved in advance by DISTRICT Project Manager, and providing that:

- Each expense is separately identified (air fare, hotel, rental car) with an amount and date incurred. Confirming documents may be requested.
- Charged mileage for vehicle mileage shall not exceed the current allowable Internal Revenue Service rate.

- Air travel is coach or economy rate for refundable tickets. Business and first class rates will not be reimbursed.
- Lodging accommodations are moderately priced.
- Meal charges are reasonable. (Reimbursement for meals will only be made in conjunction with out-of-town travel.)
- Taxis or shuttles are used rather than rental cars whenever cost effective.
- Rental cars are intermediate or compact class only.

2.6 Budget Amounts

<u>Contracted Services</u>	<u>Optional Services</u>	<u>Maximum Cost Ceiling*</u>
<u>\$(dollars)</u>	<u>\$(dollars)</u>	<u>\$(dollars)</u>

**** (Maximum Cost Ceiling is the sum of Contracted and Optional Services. If your scope has no Optional Services, delete the Contracted and Optional Services columns.)***

The Maximum Cost Ceiling shown above is based upon the cost estimate and labor hours attached hereto as Exhibit B-1 and Exhibit B-2. Costs described above, comprising Direct Labor, Indirect Costs, Subconsultant Services and Other Direct Costs shall be payable up to the Maximum Cost Ceiling as specified herein.

2.7 Billing and Payment

CONSULTANT shall invoice DISTRICT monthly for the actual costs incurred for work performed during the previous month. Actual costs shall include Direct Labor, Indirect Costs, Subconsultant Services, and Other Direct Costs as specified herein. Actual costs shall be invoiced by task as described in Exhibit A. Invoices shall set forth a description of the actual costs incurred and the services performed, the date the services were performed and the amount of time spent rounded to the nearest quarterly hour increment (.25) on each date services were performed and by whom. Supporting documentation for the invoice shall be organized to clearly identify the task charged and shall be supported by such copies of invoices, payroll records, and other documents as may be required by DISTRICT to authenticate invoiced costs. Copies of all invoices from any subconsultant(s) and outside service(s) shall be attached. ***(Insert the following sentence if paragraph 2.9 below applies and is included in agreement. "Where CONSULTANT is required by law to pay prevailing wage rates, supporting documentation for such work shall be in accordance with guidelines set forth below and shall include certified payroll reports. ")*** DISTRICT shall pay CONSULTANT within thirty (30) days, upon receipt of a proper CONSULTANT invoice, ***(Optional insert - include the following words here only if retention will***

be accumulated: "the amount invoiced less a ten percent (10%) retention amount,"), provided that all invoices are accompanied by sufficient cost documentation, and DISTRICT Form P-47 (Subcontractor Payment Report - CEP Participation), to allow the determination of the reasonableness and accuracy of said invoice. ***(Optional insert - include the following sentence here only if retention will be accumulated: "The retention accumulated to date shall be paid by DISTRICT upon DISTRICT's acceptance of the final version of all documents specified in ARTICLE 1 - SCOPE OF WORK, paragraph 1.6.")***

The Maximum Cost Ceiling is in effect for the entire Scope of Services. If the authorized Maximum Cost Ceiling is reached, CONSULTANT shall complete the agreed-upon work for the authorized Maximum Cost Ceiling. Labor hours may be reallocated within the tasks without renegotiation of the Agreement with written approval from the DISTRICT Project Manager in such a manner so as not to exceed the Maximum Cost Ceiling. In no event shall the Maximum Cost Ceiling be increased unless there is a written amendment of this Agreement.

2.8 Budget Status Reports

For the duration of this Agreement, the CONSULTANT shall provide DISTRICT with ("***bi-weekly***" or "***monthly***" ***depending on duration of project***) budget status reports that include, in tabular or graphical format, for each report period: (1) the original cumulative projected cash flows for the duration of the project (prepared at the start of the project), (2) the actual cash flows for the work completed to date, (3) the current projected cash flows to complete the project, and (4) the earned value (the amount of work actually completed to date compared to the budget expended). Current projected cash flows shall be based on all CONSULTANT and subconsultant time sheets up to a date within 3 weeks of the date of the budget status report.

2.9 Prevailing Wages and Other Requirements for Construction Inspection, and Construction Related Work During Design and Preconstruction Phases of Construction. ***(Optional Insert – include this paragraph 2.9 and all its subparagraphs if your Scope of Services includes construction, alteration, demolition, installation, maintenance, repair work, or other construction related work during the design or preconstruction phases of construction including but not limited to inspection and land surveying.)***

2.9.1 All Contractors and Subcontractors of any tier bidding on, or offering to performing work on a public works project shall first be registered with the State Department of Industrial Relations (DIR) pursuant to Section 1725.5 of the Labor Code. No bid will be accepted nor any contract entered into without proof of the Contractor and Subcontractors' current registration with the DIR (LC § 1771.1).

- 2.9.2 All public works projects awarded after January 1, 2015, are subject to compliance monitoring and enforcement by the DIR (LC § 1771.4) and all Contractors are required post job site notices, “as prescribed by regulation” (LC § 1771.4).
- 2.9.3 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. 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.
- 2.9.4 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.
- 2.9.5 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.
- 2.9.6 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.
- 2.9.7 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.
- 2.9.8 The Contractor and each Subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed in connection with the Work. The payroll records shall be certified and shall be available for inspection in

accordance with the provisions of Section 1776 of the Labor Code. Certified payroll records shall be on the forms provided by the DIR or contain the same information required on the Department's form

- 2.9.9 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.
- 2.9.10 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.
- 2.9.11 Pursuant to the provisions of Sections 1810, et seq. of the Labor Code 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, unless 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.
- 2.9.12 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 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 the provisions of Labor Code, Sections 1810, et seq.
- 2.9.13 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.

- 2.9.14 In the performance of a public works 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. In the event the Contractor or any Subcontractor willfully fails to comply with this requirement the Contractor or Subcontractor shall be subject to the penalties for noncompliance in Labor Code section 1777.7.
- 2.9.15 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>.

(Note: this table is prepared by the consultant. The following is provided to show format.)

EXHIBIT B-1

East Bay Municipal Utility District (Project Title)

COST DISTRIBUTION

	Consultant						Subconsultants**						
	Direct Labor						Subconsultant # 1			Subconsultant # 2			
	Project Manager	Project Engineer	Drafting				Project Engineer	Assist. Engineer		Project Engineer	Assist. Engineer		
Hourly Rate (\$/hr.)	(***)	(***)	(***)	Total	Indirect Costs	ODCs*	(***)	(***)	Total Cost	(***)	(***)	Total Cost	Total
I. Contracted Services													
Task 1.1:													
Task 1.2:													
Task 2.1:													
Task 2.2:													
Subtotal I.													
II. Optional Services													
Task 3:													
Task 4:													
Subtotal II.													
TOTAL of Subtotals I. & II													

* ODCs = Other Direct Costs.

** Includes any prime consultant markup in subconsultant hourly rates.

*** *Insert hourly rate.*

(Note: this table is prepared by the consultant. The following is provided to show format.)

EXHIBIT B-2

**East Bay Municipal Utility District
(Project Title)**

LABOR DISTRIBUTION*

	Consultant				Subconsultants***							
					Subconsultant # 1			Subconsultant # 2				
	Project Manager	Project Engineer	Drafting	Subtotal	Project Engineer	Assist. Engineer	Subtotal	Project Engineer	Assist. Engineer	Subtotal	Total	
I. Contracted Services												
Task 1.1:												
Task 1.2:												
Task 2.1:												
Task 2.2:												
Subtotal I.												
II. Optional Services												
Task 3:												
Task 4:												
Subtotal II.												
TOTAL												

(Include both consultant and subconsultant hours. Also, include the percent time commitment for key personnel if a critical issue for success of the project.)*

EXHIBIT C

East Bay Municipal Utility District (Project Title)

CEP COMPLIANCE

<u>FIRMS UTILIZED</u>	<u>MINIMUM AMOUNT*</u>	<u>MINIMUM PERCENT**</u>
(Name of Subconsultant's firm)	\$(dollars)	(1 to 99)
(Name of Subconsultant's firm)	\$(dollars)	(1 to 99)
TOTAL	\$(dollars)	(1 to 99)

* Does not include consultant's markup. *(Include this footnote only if your contract includes markup on subconsultants.)*

** Based on a Maximum Cost Ceiling amount of \$(dollars).

EXHIBIT D INSURANCE REQUIREMENTS

(Insurance requirements may vary based on the nature of the Agreement. Always make sure these Insurance terms are reviewed by Risk Management for your contract.)

(Change the word “CONSULTANT” if necessary to match the term in the Agreement)

I. 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, CONSULTANT shall, at its sole cost and expense, maintain insurance in conformance with the requirements set forth below.

B. CONSULTANT 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 D to the DISTRICT. The Exhibit D may be signed by an officer of the CONSULTANT (Agent) or by the Insurance Broker for the CONSULTANT. CONSULTANT shall update Exhibit D throughout the specified term of the insurance required by this Agreement by resubmitting the completed Exhibit D prior to the expiration date of any of the required insurance. The updated Exhibit D 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 CONSULTANT shall not commence Services until such insurance has been accepted by the DISTRICT.

C. CONSULTANT shall carry and maintain the minimum insurance requirements as defined in this Agreement. CONSULTANT 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 CONSULTANT of any of the insurance requirements, nor decrease liability of CONSULTANT.

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, CONSULTANT 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. CONSULTANT 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 CONSULTANT's insurance broker or agent update, sign and return Exhibit D 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, CONSULTANT 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. CONSULTANT agrees to provide immediate Notice to the DISTRICT of any loss or claim against CONSULTANT 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. CONSULTANT 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 CONSULTANT'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 CONSULTANT, should CONSULTANT 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 CONSULTANT's insurance broker or agent update, sign and return this *Exhibit D*

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. CONSULTANT'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 CONSULTANT, 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 CONSULTANT is self-employed, a sole proprietorship or a partnership, with no employees, and is exempt from carrying Workers' Compensation Insurance, CONSULTANT must return the completed Verification of Insurance confirming that CONSULTANT has no employees and is exempt from the State of California Workers' Compensation requirements.

E. If CONSULTANT is self-insured with respect to Workers' Compensation coverage, CONSULTANT 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 CONSULTANT 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. CONSULTANT 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 CONSULTANT'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 CONSULTANT is exempt from the State of California's requirement to carry workers' compensation insurance.

As the CONSULTANT's insurance broker/agent, I hereby verify that I have reviewed and confirmed that the CONSULTANT 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. CONSULTANT'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 CONSULTANT.

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 CONSULTANT 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 CONSULTANT’s behalf.

I. Contractual liability coverage shall be included and shall not limit, by any modification or endorsement, coverage for liabilities assumed by CONSULTANT 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 CONSULTANT 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. CONSULTANT 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 CONSULTANT’s failure to provide the waiver of subrogation from its insurance carrier(s).

K. “Independent CONSULTANT’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 CONSULTANT, 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 CONSULTANT’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 CONSULTANT'S insurance broker/agent, I hereby verify that I have reviewed and confirmed that the CONSULTANT 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

CONSULTANT'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 CONSULTANT.

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 CONSULTANT 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 CONSULTANT'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 CONSULTANT'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 CONSULTANT'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 CONSULTANT, 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 CONSULTANT'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 CONSULTANT'S insurance broker/agent, I hereby verify that I have reviewed and confirmed that the CONSULTANT 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. CONSULTANT'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 CONSULTANT.

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, CONSULTANT 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 CONSULTANT'S insurance broker/agent, I hereby verify that I have reviewed and confirmed that the CONSULTANT 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 (NOT APPLICABLE)

A. CONSULTANT'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 CONSULTANT.

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 CONSULTANT 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, CONSULTANT 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 CONSULTANT'S insurance broker/agent, I hereby verify that I have reviewed and confirmed that the CONSULTANT 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 (NOT APPLICABLE)

A. CONSULTANT'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 CONSULTANT.

C. Minimum Requirements: It is expressly understood by the parties that CONSULTANT'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 CONSULTANT's behalf.
5. Contractual liability coverage shall be included and shall not limit, by any modification or endorsement, coverage for liabilities assumed by CONSULTANT under this Agreement as an "insured contract."
6. "Independent CONSULTANT'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 CONSULTANT, 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 CONSULTANT'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. CONSULTANT 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 CONSULTANT shall defend and pay any damages as a result of failure to provide the waiver of subrogation from the insurance carrier(s).

D. CONSULTANT 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 CONSULTANT'S insurance broker/agent, I hereby verify that I have reviewed and confirmed that the CONSULTANT 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 D

GENERAL REQUIREMENTS

Effective: June 9, 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 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.
- 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.