

## REQUEST FOR PROPOSAL (RFP)

### for Consultant Design Services for the Walnut Creek Water Treatment Plant Pretreatment Project Design Services

#### **ADDENDA**

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

#### **CONTACT**

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#### **RESPONSE DUE**

October 11, 2023  
4:00 p.m. PDT

#### **SUBMIT BY MAIL TO**

<p>RESPONSE DELIVERED BY SERVICE (UPS, FedEx, DHL, etc.) to: <i>RFP 23-557-02</i> EBMUD–Purchasing Division, Room 102 375 Eleventh Street Oakland, CA 94607</p>	<p>RESPONSE DELIVERED BY MAIL (USPS) to: <i>RFP 23-557-02</i> EBMUD–Purchasing Division, Room 102 P.O. Box 24055 Oakland, CA 94623</p>
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# **EAST BAY MUNICIPAL UTILITY DISTRICT**

**RFP for**

**Walnut Creek Water Treatment Plant Pretreatment Project Design Services**

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**I. STATEMENT OF WORK**

**A. PURPOSE**

The East Bay Municipal Utility District (EBMUD or District) supplies high-quality drinking water to 1.4 million customers in the San Francisco Bay Area. The District’s Walnut Creek Water Treatment Plant (WCWTP) is a 115 million-gallon-per-day (MGD) facility located in Walnut Creek, CA. The WCWTP Pretreatment Project (Project) will add treatment processes to the WCWTP, including ballasted flocculation, ozone, solids handling, and supporting electrical power and maintenance facilities.

It is the intent of these specifications, terms, and conditions to request proposals for consultant services for the Project. Given the size, complexity, and length of the overall schedule required to complete the Project, EBMUD plans to take a phased approach by negotiating and issuing three separate consultant contracts as shown in Table A.

Table A: Overview of Consultant Contracts

<b>Contract</b>	<b>Deliverables</b>	<b>Estimated Award Date</b>	<b>Approximate Duration</b>
Contract #1: Pre-Design	Technical Memoranda, pre-design up to 30% drawings, 30% construction cost estimate and schedule.	Fall 2023	Fall 2023 – Summer 2025
Contract #2: Detailed Design (future)	Bid documents (100% drawings and specifications), construction cost estimate, bid phase support. Detailed scope based on results of Contract #1.	Fall 2025	Fall 2025 – Summer 2027
Contract #3: ESDC (future)	Construction support and O&M documentation.	Fall 2027	Fall 2027 – end of construction (TBD)

After RFP proposals evaluation, EBMUD will select and retain the services of a consultant or team of consultants that it deems best qualified to support the Project. EBMUD will negotiate with the selected consultant or team of consultants to finalize a detailed scope of work and budget for Contract #1 to complete the pre-design for the Project.

EBMUD anticipates that Contracts #2 and #3 will be negotiated and awarded in the future. The details of these future contracts will be based on the pre-design work in Contract #1, which will provide EBMUD information to assess the full design scope of the Project. Table A shows the anticipated schedule for Contracts #2 and #3.

EBMUD intends to retain the same consultant throughout Contracts #1, #2, and #3 of the Project to provide continuity. However, EBMUD retains the option of negotiating contracts with a different consultant for Contracts #2 and #3 contingent upon EBMUD's needs for the Project. EBMUD may decide to issue multiple contracts with varying scope to multiple proposers depending on the needs of the Project and experience of proposers.

B. **BACKGROUND**

The WCWTP is located at 2201 Larkey Lane in Walnut Creek, CA. It was originally constructed in 1967 to treat Sierra Mountain snowmelt water stored in Pardee Reservoir and conveyed to the EBMUD service area by the Mokelumne Aqueducts. Where the Mokelumne Aqueducts connect to the WCWTP, the WCWTP has separate north and south treatment trains. Each treatment train includes a raw water pipeline, pH adjustment, rapid mix, and dual-media filters. The north and south trains flow into a combined filtered effluent pipeline, then into a 4 million-gallon (MG) chlorine contact chamber and a 16 MG clearwell. The WCWTP also has a spent filter backwash water reclaim system and a solids storage basin. The WCWTP is permitted for 115 MGD and primarily serves the District's East-of-Hills area, with emergency interties to neighboring water agencies. In recent years, source water quality has periodically degraded due to fires in the watershed, high-intensity storms, algae blooms, and utilization of drought water supplies. The WCWTP has limited ability to treat incoming source waters that can contain high levels of sediments, organic compounds, and other pollutants.

The Project will construct new pretreatment facilities that will remove sediments, organics, and pollutants in the source water and ensure reliable drinking production under a wide range of source water conditions. **Figure 1** shows the location and approximate footprint of the proposed pretreatment facilities and ancillary improvements at the WCWTP site. Construction will be completed in two phases. Phase 1 will upgrade one treatment train, adding 80 MGD of pretreatment capacity and increasing total WCWTP capacity to 125 MGD. Phase 2 will upgrade the second treatment train for a total pretreatment capacity of 160 MGD and is a future construction phase that will be scheduled as needed to supply service area demands. **Figure 2** is a schematic that shows the planned treatment process upgrades.

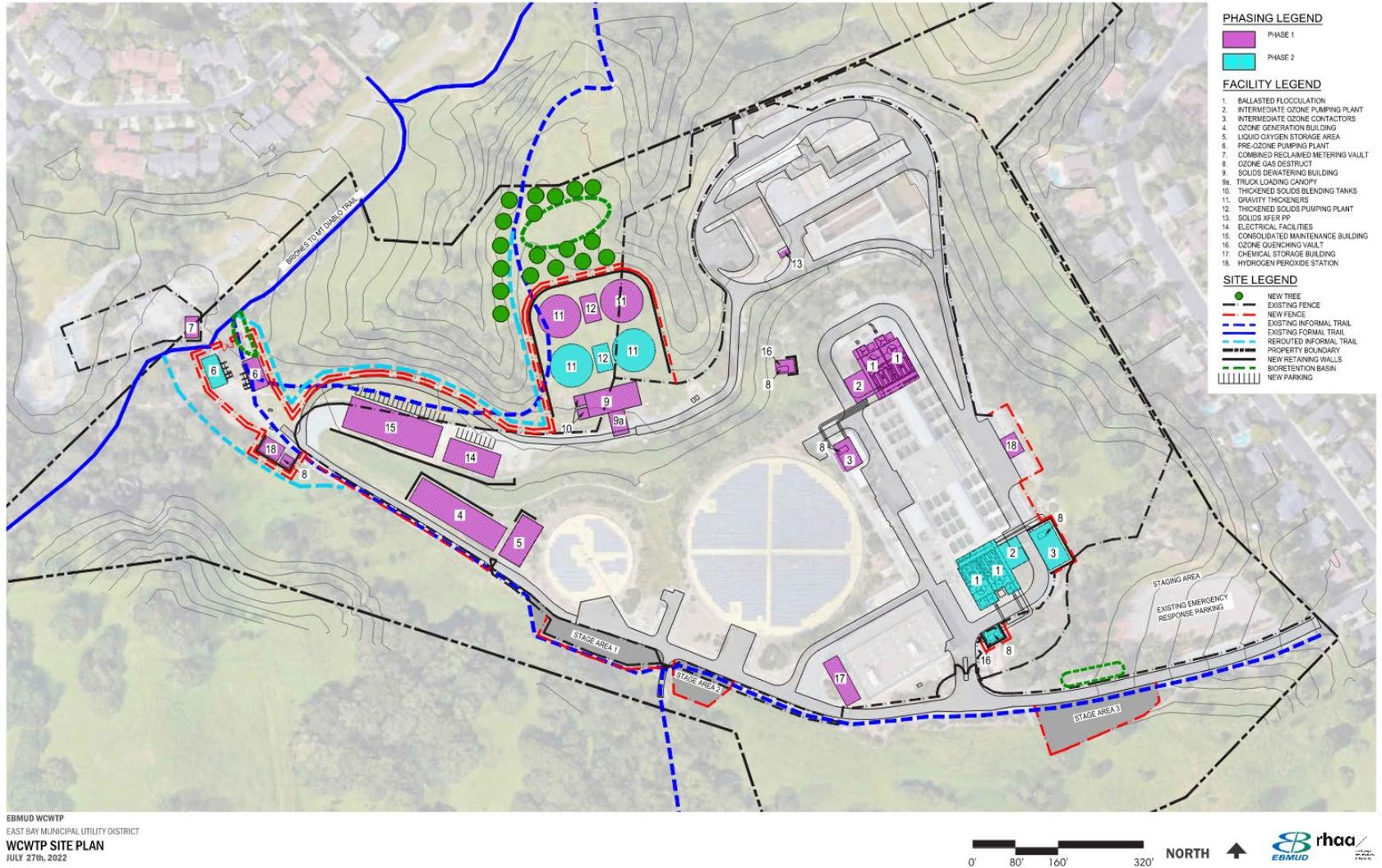


Figure 1: Walnut Creek WTP Pretreatment Site Plan – Location and Phasing of Proposed Facilities

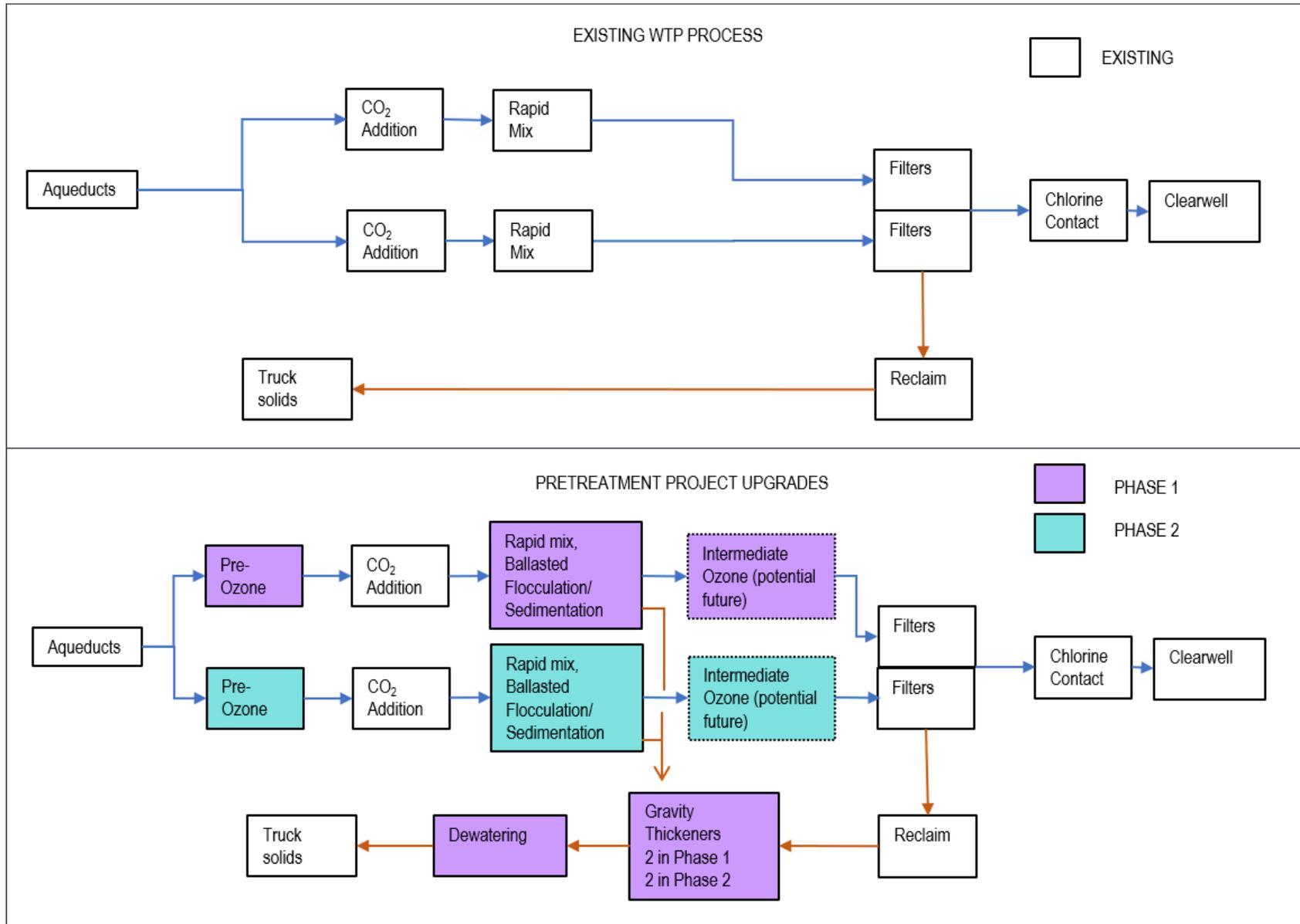


Figure 2: Walnut Creek WTP Process Schematic, Existing and with Proposed Pretreatment Upgrades Phase 1 and 2.

C. **OVERVIEW OF TASKS**

This section provides a summary of main tasks and deliverables. For details, refer to Section E Scope of Work.

1. **Contract #1, Pre-Design**

Develop Technical Memoranda: Review and update EBMUD's existing draft WCWTP Basis of Design Report (BODR) along with previous technical reports and planning studies and develop comprehensive design criteria for the following Project elements:

- a) Power system upgrades: primary, standby, distribution, and emergency facilities
- b) Ozone system: injection system, generators, liquid oxygen (LOX) storage facilities, architectural layouts
- c) Dewatering building: centrifuges, dewatered solids handling, polymer system, architectural layout
- d) Process chemical upgrades
- e) Landscaping, grading, and drainage
- f) Traffic control

Produce 10% and 30% deliverables for Phase 1 of the Project. Drawings will incorporate space planning and process connections for future Phase 2 facilities. In addition to producing drawings, prepare a detailed scope, budget, and schedule for final design and construction of the Phase 1 improvements.

Phase 1 Improvements include the following and are shown in purple on Figure 1.

- a) Two gravity thickeners
- b) Thickened solids pumping plant
- c) Solids blending tanks
- d) Dewatering building and truck loading facility
- e) Combined reclaim control vault
- f) Electrical power facilities, including unit substation, plant backup generator, and fuel storage.
- g) LOX storage
- h) Ozone generation facility
- i) North pre-ozone sidestream injection pumping plant (PP)<sup>1</sup>
- j) North intermediate ozone sidestream injection pumping plant<sup>1</sup>
- k) North intermediate ozone contactor<sup>1</sup>
- l) North ozone destruct facilities

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<sup>1</sup>District will be conducting pilot testing of pre-ozone and intermediate ozone concurrently with Contract #1 Pre-Design. Incorporation of intermediate ozone under Phase 1 detailed design to be determined using pilot testing results in Summer 2025.

- m) North ballasted flocculation basins
- n) Chemical storage and feed systems
- o) Consolidated maintenance building
- p) Large diameter underground pipelines (not shown on figures)

Phase 2 Improvements include the following and are shown in teal on Figure 1.

- q) Two gravity thickeners
- r) Thickened solids pumping plant
- s) Large diameter buried pipelines (not shown on figures)
- t) South pre-ozone sidestream injection pumping plant<sup>2</sup>
- u) South intermediate ozone sidestream injection pumping plant<sup>2</sup>
- v) South intermediate ozone contactor<sup>2</sup>
- w) South ballasted flocculation basins
- x) South ozone destruct facilities

An overview of the WCWTP existing processes as well as Phase 1 and Phase 2 process improvements is shown in Figure 2.

## Optional Contract #1 Tasks

- *Lidar Scan*: provide lidar scan of the WCWTP including the existing filter plant and reclaim facilities, as well as proposed locations for pretreatment facilities, consolidated maintenance building, and new solids dewatering facilities.
  - *Pilot Study Support*: provide guidance to EBMUD piloting efforts to optimize ballasted flocculation and ozone with filtration and reclaim processes.
  - *Lafayette Weir Design Support*: provide design support (e.g., structural analysis, hydraulic calculations, constructability review) for Lafayette Weir modifications required for the Project. Design of the Lafayette Weir modifications will be completed by District forces.
2. **Contract #2, Detailed Design (future, not included in this RFP)**  
Prepare 50%, 90% and final drawings, specifications, cost estimate, and construction schedule for Phase 1 improvements. Support the bid and award process.
  3. **Contract #3, Engineering Services During Construction (ESDC) for Construction of Phase 1 Improvements (future, not included in this RFP)**

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<sup>2</sup> District will be conducting pilot testing of pre-ozone vs. intermediate ozone concurrently with Contract #1 Pre-Design. Space planning and process connections for Phase 2 ozone to be completed only.

Provide ESDC including review of shop drawings and submittals, assistance with review of construction change orders and claims, review of Requests for Information (RFIs) and design change requests, and assistance with as-built record drawings.

D. **PROPOSER QUALIFICATIONS**

1. Proposer Minimum Qualifications

The proposed key team members shall meet the following qualifications:

- a. Shall have designed at least two (2) ballasted flocculation (e.g., Actiflo) systems greater than 30 MGD in the last ten (10) years.
- b. Shall have designed at least two (2) sidestream ozone injection systems for water treatment plants greater than 30 MGD in the last ten (10) years.
- c. Shall have designed at least two (2) mechanical dewatering systems for water treatment plants greater than 30 MGD in the last ten (10) years.
- d. Shall have experience with process evaluation and facilities planning for retrofits of at least two (2) water treatment plants greater than 30 MGD.
- e. Shall have experience with electrical, power, and control systems design for at least two (2) water treatment plants in the last ten (10) years.
- f. Shall have designed at least two (2) water treatment plant retrofit projects using Building Information Modeling (BIM) software.
- g. Shall possess all permits, licenses, and professional credentials necessary to perform services as specified under this RFP.

E. **SCOPE OF WORK**

**Common Standards for Deliverables**

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*0.1 Drawings*

All drawings produced for the District will be compatible with MicroStation V8 – V8i Edition (version 8.11). All new drawing numbers and Piping and Instrumentation Diagrams (P&ID) device tagging will follow the District’s Engineering Standard Practices. Project drawings will be stored on a BIM collaboration platform server, as described in Task 2.

### *0.2 3D Models*

3D design deliverables shall use the following 3D BIM Platforms

- (a) Process Mechanical – Plant 3D
- (b) Building Mechanical HVAC & Plumbing – Revit MEP 2023
- (c) Structural – Revit Structural 2023
- (d) Architectural – Revit Architecture 2023
- (e) Civil Paving, grading, and drainage – Civil 3D 2023
- (f) Civil Yard Piping/Trenches – Civil 3D 2023
- (g) Electrical general sheets – AutoCAD 2023
- (h) Electrical power, control, lighting, and receptacle plans – Revit MEP 2023
- (i) Electrical single line diagrams and conduit schedules – AutoCAD Electrical
- (j) Instrumentation and control, P&IDs – AutoCAD Plant 3D
- (k) Design review and clash detection – Navisworks Manage 2023
- (l) The 3D models shall be delivered as Revit (.rvt) or AutoCAD (.dwg) models as appropriate for each specified platform. CAD/BIM Standards and templates shall be provided by the consultant
- (m) Design documents shall be delivered as 2D AutoCAD and PDF exports

### *0.3 Design Reviews*

Design reviews for drawings shall be conducted via a Bluebeam Studio session. District reviewer comments will be submitted in Bluebeam and via email and spreadsheet, and the consultant shall create a final compilation of comments and responses in Excel spreadsheet format. PDFs of draft and final design review documents shall be stored on the BIM collaboration platform server. For review meetings that use 3D model presentations and live model walk-throughs, the consultant shall record verbal and written comments and incorporate them into the review documents.

### *0.4 Written Reports*

For each report, assume one draft and one final version, with a minimum 4-week duration for District comments on the draft. Reviews shall be conducted using both Bluebeam Studio and MS Word. Final reports shall be submitted in MS Word, latest version, and PDF.

### *0.5 Specifications (Future Contracts #2 and #3)*

- (a) The District will upload current Master Specs to the Project folder. The District uses Construction Specifications Institute (CSI) MasterFormat 2004. All specifications will be in this format. The final specifications will be submitted in both Adobe Acrobat and in Microsoft Word formats.
- (b) The District's Master Specifications will be submitted to the consultant in MS Word format to use as the base specifications for preparing the Project's specifications. The consultant shall use the "Track Changes" feature in the MS Word when making changes to the District Master Specifications.

## **Contract #1, Task 1 – Project Management**

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The consultant will provide a sufficient and well-organized project administration team to manage the Project throughout the entire period of the Contract consistent with the principles of the Project Management Institute.

### *Task 1.1 – Project Management Plan*

The consultant will develop and implement a Project Management Plan (PMP) detailing the manner in which the Project will be planned, managed and executed. The PMP will be updated as necessary to reflect changes in the Project, and all revisions must be submitted to the District for review and comment. As a minimum, the PMP will be reviewed and updated at the initiation of a new phase of Project delivery.

### *Task 1.2 – Project Kick-off Meeting*

Upon completion of the PMP, the consultant will facilitate a meeting with the District to review the PMP 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.

### *Task 1.3 – Progress Reports and Meetings*

The consultant will conduct bi-weekly progress meetings and major milestone meetings with District staff. Meetings will 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 will be managed by the consultant. In addition, the consultant will conduct weekly teleconference calls to update the District on work performed, effort planned for the following week, and all issues that may affect scheduled delivery dates and costs.

The consultant will prepare and submit monthly progress reports. The monthly reports will be clear and concise to facilitate quick understanding of key Project achievements, statuses, and critical issues. The monthly progress reports will include:

- (1) An assessment of actual versus planned progress in completing the Scope of Services, including a description of the tasks and deliverables completed to date.
- (2) For each task, the percentage of services performed versus the percentage of fees incurred for such task, and explanation of any significant variances in percentage of services performed compared to percentage of fees incurred.
- (3) For each task, the percentage of the fees incurred for such task compared to dollar amount allocated to such task.

- (4) A look-ahead schedule listing deliverables and activities planned for the next month.
- (5) A summary of proposed changes to the Scope of Services including justifications for such changes.
- (6) Action Item and Decision Log: This log will document action items and Project concerns and issues throughout the Agreement duration which require resolution by District and/or the consultant.

#### *Task 1.4 – Monthly Invoices*

The consultant will prepare a monthly invoice which includes a full accounting of all staff, number of hours, loaded hourly rate, subconsultants and other direct costs organized by individual scope.

#### *Task 1.5 – Deliverables*

The consultant will provide the following deliverables:

1. Project Management Plan
2. Web-based Project Management System
3. Quality Management Plan
4. Meeting Agendas and Minutes – The consultant will provide the agenda for all the meetings at least two (2) business days prior to the meetings and the meeting minutes within three (3) business days after the meetings. The minutes will focus on decisions made and open action items.
5. Monthly progress reports
6. Monthly invoices

### **Contract #1, Task 2 – Document Review and Management**

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#### *Task 2.1 – Document Review*

The consultant will review all reports, memoranda, drawings, process data, permits, and other background documents for the WCWTP. The District will provide copies of pertinent documents. Two key reports are the *Walnut Creek WTP Pretreatment Upgrades, Basis of Design Report (2020)* and the *Inline WTPs Pretreatment Alternatives (2018)*.

#### *Task 2.2 Document Management*

The consultant will host, administer, and maintain a cloud BIM collaboration platform folder to store shared Project documents and deliverables. The folder will be read/write accessible by District stakeholders, reviewers, and design staff for the duration of the Project. At a minimum, the platform folder will contain the following sub-folders:

1. Meetings and Presentations
2. Technical Memoranda
3. Models
4. Drawings
5. Specifications

6. Geotech
7. Survey
8. Equipment Info
9. Construction Schedule
10. Cost Estimate
11. Process Control Descriptions
12. Traffic Control
13. Drafting Table

### **Contract #1, Task 3 – Technical Memoranda (TM)**

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The consultant will produce the following TMs prior to the 10% Design milestone:

#### *Task 3.1 – TM for Power System Upgrades*

- a) Review existing power supply, distribution, and generation facilities.
- b) Determine if current electrical equipment needs replacement during a site visit with District electricians.
- c) Assess future loads for Pretreatment Phases 1 and 2, and determine which loads are legally required standby loads vs emergency standby loads. New chemical hazards should be evaluated along with California Building Code requirements.
- d) Evaluate size of existing generators and discuss outage and cutover considerations.
- e) Formulate alternatives for power facilities including:
  - i. Upgrade of primary switchgear and standby generator at existing location.
  - ii. Installation of new, relocated primary switchgear and standby generator.
- f) Create a site plan for power distribution and a preliminary single-line diagram.
- g) Estimate life-cycle energy costs.
- h) Identify long-lead items and prepurchase items.

#### *Task 3.2 – TM for Ozone Process Upgrades*

The District will be performing pilot testing of pre-ozone and intermediate ozone concurrently with Contract #1 to verify which alternative(s) meet the District's water quality and project goals. Refer to Optional Task 6.2 for Pilot Study Support. Pilot testing completion is not anticipated until Summer 2025.

The consultant shall proceed with design criteria development for both pre-ozone and intermediate ozone and perform the following sub-tasks. Final determination for construction of pre-ozone and/or intermediate ozone under Phase 1 will be completed prior to Contract #2, Detailed Design.

- a) Evaluate BODR design criteria for the ozonation process and any available pilot testing data
- b) Hold one 4-hour Ozone Process Design Criteria Workshop with District stakeholders to discuss the following topics:

- i. Pre-ozone vs intermediate ozone: pilot data needed, advantages and disadvantages, construction phasing.
  - ii. Sidestream injection vs. fine bubble diffusers for intermediate ozone.
  - iii. Contactor design criteria: pipeline and contact basin alternatives.
  - iv. Need for Advanced Oxidation Process (e.g., with hydrogen peroxide).
- c) Hold one 4-hour Ozone Facilities Design Criteria Workshop to determine design criteria for the following new buildings:
- i. Ozone generation buildings
  - ii. Pre-ozone injection PP
  - iii. Intermediate injection PP

*Task 3.3 – TM for Dewatering Building*

- a) Evaluate BODR design criteria for the solids dewatering system.
- b) Hold one 4-hour workshop with District stakeholders to discuss the following topics:
  - i. Solids loading assumptions.
  - ii. Mechanical dewatering alternatives (belt press, centrifuge).
  - iii. Sludge cake handling alternatives (screw conveyor, storage bins, etc.).
  - iv. Dewatering building design criteria:
    - Process area
    - Storage
    - Bathroom
    - Lab spaces

*Task 3.4 – TM for Process Chemical Upgrades*

- a) Evaluate BODR design criteria and Chemical System Safety Improvements for process chemical system background information.
- b) Hold one 4-hour workshop with District stakeholders to discuss the following topics:
  - i. Aluminum sulfate vs. polyaluminum chloride as primary coagulant
  - ii. Liquid ammonium sulfate vs. aqueous ammonia for chloramination
  - iii. Treatment polymer options
  - iv. Tank sizing criteria (days of storage) for new chemicals
  - v. Chemical piping options (chased vs. neat, single vs. double wall)

*Task 3.5 – TM for Landscaping*

- a) Review viewshed analysis in California Environmental Quality Act (CEQA) documents.
- b) Create a landscaping plan to provide screening of new facilities consistent with CEQA documents.

*Task 3.6 – TM for Traffic Control*

- a) Evaluate truck routes and construction vehicle traffic during construction consistent with CEQA documents.
- b) Formulate a traffic control plan for the various stages of construction.

## **Contract #1, Task 4 – 10% Pre-Design**

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The consultant shall complete the following 10% deliverables for the Project:

### *Task 4.1 – 10% Design Criteria Summary Report*

This report provides a concise, tabular summary of the design criteria for each major Project element. At a minimum, each of the proposed Phase 1 and 2 improvements listed above shall have a table in the report that lists the existing conditions (if applicable), design criteria, and assumptions. Design criteria for major process components includes size, number, redundancy, capacity, power requirement, and electrical and control system design criteria, using the District's Electrical and Control System Design Guides as the basis for the consultant's work. Summary Report to include a list of major equipment, with alternatives identified and as needed, prepurchase options analyzed.

### *Task 4.2 – 10% Stakeholder Meeting*

Lead and conduct a 10% meeting with District stakeholders that covers the information listed below. The presentation materials shall be made available to the District.

- 1) Project objectives and description.
- 2) Detailed scope of work.
- 3) Design and construction considerations, including facility outage requirements and temporary generator/pump/building needs.
- 4) Design criteria summary.
- 5) Regulatory requirements (e.g., air quality, waste discharge, sludge disposal, fire codes) as applicable.
- 6) Required permits, easements, or utility coordination.
- 7) Summary of geotechnical information.
- 8) Major equipment selection – list of major equipment; alternatives identified and evaluated; analysis of prepurchase options.
- 9) Preliminary process control strategies, alarms, etc. (electrical and instrumentation).
- 10) Preliminary cost estimate.
- 11) Preliminary construction schedule, including discussion of Phase 1 and 2 Project components, critical path activities, and long-lead procurements.

### *Task 4.3 – 10% Drawing Package for Phase 1*

Produce a 10% drawing set that contains the information listed below. The drawings shall include Phase 1 facilities and connections and space planning for Phase 2 facilities to be constructed at a later date. The drawings shall be distributed to District stakeholders for comments.

- 1) Flow diagram
- 2) Hydraulic profile
- 3) Site plan layout
- 4) Equipment layouts showing:
  - i) Pumps
  - ii) Major pipes
  - iii) Large valves
  - iv) Major electrical equipment from electrical one-line diagram
  - v) Major control panels
- 5) Yard piping layout showing:
  - i) Major process lines
  - ii) Sewer
  - iii) Storm drain
- 6) Electrical duct bank layout
- 7) Floor plan of buildings and structures
- 8) Architectural elevations
- 9) Electrical one-line diagram
- 10) P&IDs
- 11) Delineation of Phase 1 and Phase 2 facilities on all drawings

*Task 4.4 – 10% Design Comments and Responses*

Compile and respond to District comments on the 10% Drawing Package. All comments and responses will be tabulated in a report.

*Task 4.5 – Process Control Narratives*

Write narrative descriptions of process system descriptions keyed to each P&ID for each new and updated process. These narratives do not need to detail all interlocks, alarm points, control capabilities, etc. However, they need to be sufficiently detailed to give reviewers an overview of the consultant's proposed control strategies.

*Task 4.6 – Construction Schedule*

Estimate the length of the construction phase and provide a construction sequencing plan. The plan shall include the overall duration for Phase 1, and a construction schedule by major activity for Phase 1.

*Task 4.7 – 10% Cost Estimate*

Compute an estimate of probable construction costs. Accuracy of the cost estimate will conform to the Association for the Advancement of Cost Engineering (AACE) International Recommended Practice 17R-97 2020 Edition, Class 4. The cost estimate shall consist of unit costs for all major equipment, as well as quantity takeoffs for earthwork, concrete, piping, conduit, wire, and other bulk materials.

## **Contract #1, Task 5 – 30% Pre-Design**

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The consultant shall address comments on the 10% Design, incorporate any required scope changes, and further develop the design criteria, drawings, control descriptions, construction schedule, and cost estimate. Per District Procedures, at the 30% milestone a Project scope “freeze” is enacted, and scope additions require approval by EBMUD’s Design Division Manager. The deliverables for this task are as follows:

### *Task 5.1 – 30% Design Criteria Summary Report*

Update the 10% Design Criteria Summary Report with any added scope, refinements to process assumptions and equipment, and design criteria. This report shall include a detailed description of each process area and facility. For documentation purposes, the report shall include a description of scope elements that were considered for addition after the 10% Stakeholder Meeting but were ultimately not included.

### *Task 5.2 – 30% Stakeholder Meeting*

The consultant shall conduct a 30% meeting with District stakeholders that covers the information listed below. The information below is the same list as the 10% Design Meeting, but the presentation materials will focus on changes since the 10% Design. The presentation materials shall be made available to the District.

- 1) Project objectives and description.
- 2) Detailed scope of work, with focus on changes since 10% Design.
- 3) Design and construction considerations, including facility outage requirements and temporary generator/pump/building needs.
- 4) Design criteria summary.
- 5) Regulatory requirements (e.g., air quality, waste discharge, sludge disposal, fire codes) as applicable.
- 6) Required permits, easements, or utility coordination.
- 7) Summary of geotechnical information.
- 8) Major equipment selection – alternatives identified and evaluated; analysis of prepurchase options.
- 9) Preliminary process control strategies, alarms, etc. (electrical and instrumentation).
- 10) Preliminary cost estimate.
- 11) Preliminary construction schedule, including discussion of Phase 1 and 2 project components, critical path activities, and long-lead procurements.

### *Task 5.3 – 30% Drawing Package*

The consultant shall submit a 30% drawing set that contains the information listed below. The drawings shall include Phase 1 facilities, and connections and space planning for Phase 2 facilities to be constructed at a future date. The drawings shall be distributed to District stakeholders for comments.

- 1) Flow diagram
- 2) Hydraulic profile
- 3) Site plan layout
- 4) Equipment layouts showing:
  - i) Pumps
  - ii) Major pipes
  - iii) Large valves
  - iv) Major electrical equipment from electrical one-line
  - v) Major control panels
- 5) Yard piping layout showing:
  - i) Major process lines
  - ii) Sewer
  - iii) Storm Drain
- 6) Electrical duct bank layout
- 7) Floor plan of buildings and structures
- 8) Architectural elevations consistent with the CEQA documents
- 9) Electrical one-line diagram
- 10) P&IDs
- 11) Delineation of Phase 1 and Phase 2 and interim facilities (if needed) on all drawings.

*Task 5.4 – 30% Design Comments and Responses*

Compile District comments on the 30% Design Drawing Package and provide responses. All comments and responses shall be tabulated in a report.

*Task 5.5 – Process Control Narratives*

Update the Process Control Narratives from the 10% Design. Provide English-language process system descriptions keyed to each P&ID. It is not expected that these narratives will detail all interlocks, alarm points, control capabilities, etc. However, they need to be sufficiently detailed to give a preliminary overview of the proposed control strategies.

*Task 5.6 – Construction Schedule*

Estimated construction schedule and construction sequencing plan. These include the overall duration for Phase 1 and 2 and a construction schedule by major activity for Phase 1.

*Task 5.7 – 30% Cost Estimate*

Consultant's estimate of probable construction costs. Accuracy of cost estimate will conform to AACE International Recommended Practice 17R-97, Class 3. The cost estimate shall consist of unit costs for all key equipment, as well as quantity takeoffs for earthwork, concrete, piping, conduit, wire, and other bulk materials.

**Contract #1, Task 6 – Optional Tasks**

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*Task 6.1 – Lidar Scan*

Provide lidar scanning of the WCWTP including the existing filter plant and reclaim facilities, and proposed locations for pretreatment facilities, consolidated maintenance building, and new reclaim facilities.

*Task 6.2 – Pilot Study Support*

Provide technical guidance to EBMUD staff engaged in ballasted flocculation, ozone, and filtration process piloting to optimize process parameters and refine design criteria. Assist with determination of whether pre-ozone is able to meet District project goals. Anticipated pilot testing completion is in Summer 2025.

*Task 6.3 – Lafayette Aqueduct Weir Design Support*

Provide design support (e.g., structural analysis, hydraulic calculations, constructability review) for Lafayette Aqueduct Weir modifications required for the Project. The weir is a raw water control structure located downstream from the WCWTP which determines the raw water supply gradient at the head of the WCWTP.

- End of Contract #1 Tasks -

**Future Contracts #2 and #3 Tasks:**

**For the proposal, provide a level of effort estimate and approach to Contract #2 and #3 Tasks. No award of these services will occur until after completion of the 30% Design milestone.**

**Contract #2, Task 1 – 50% Design (Future)**

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The consultant shall complete 50% Design documents of Phase 1 of the Project. The design will include drawings and key specifications that represent all of the major Project concepts. The consultant will provide the necessary review, validation, and vetting of the scope items and concepts identified in the BODR and the 50% Design documents will reflect final agreements made by all stakeholders for the fundamental design elements. The 50% Design deliverables include the following:

- a) Final drawing list and specifications table of contents.
- b) Design drawings (nearly complete civil and mechanical drawings; advanced plan and profile, structural, HVAC, electrical, plumbing and fire protection drawings; and completed P&IDs).
- c) Draft specifications for major items (equipment, pipe, and concrete), including item-specific testing and startup requirements that meet District standards.
- d) Final calculations for all equipment and piping.
- e) Final electrical calculations.
- f) Final process and major equipment calculations.
- g) Final draft control narratives or strategies, including controls documentation for design integration and controls schematic of new and existing equipment.
- h) Final operational impacts during construction report.
- i) AACE Class 2 (50% Design Cost Estimate) consultant's Estimate and Basis of Estimate Report.
- j) Critical Path Method Construction Schedule and Basis of Schedule Report.
- k) 50% Design Submittal Review Meeting: prepare for and conduct a meeting with District stakeholder workgroups to summarize the main design elements included in the 50% design drawings and specifications being submitted for review and comments.
- l) Outage plan.

**Contract #2, Task 2 – 90% Design (Future)**

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The 90% Design consists of the consultant's completed drawings and specifications including resolution and incorporation of all comments submitted during the 50% Design review. The 90% Design is a finished product ready for the District's final review. In general, the 90% Design includes the following:

- a) Final draft design drawings (all sheets for all disciplines, ready for submission to the District for review and approval).

- b) Final draft specifications for all divisions (ready for submission to the District for review and approval).
- c) Final calculations for all Project elements.
- d) Final AACE Class 1 (100% Design Cost Estimate) consultant's Estimate and Basis of Estimate Report.
- e) Final Critical Path Method Construction Schedule and Basis of Schedule Report.
- f) 90% Design Submittal Review Meeting: prepare for and conduct a meeting with District stakeholder workgroups to summarize the 90% drawings and specifications being submitted for the District's final review and comments.

The 90% Design shall be submitted to the local fire agency or governing agency responsible for reviewing regulatory and hazardous material storage.

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#### **Contract #2, Task 3 – 100% Design (*Future*)**

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The final 100% Design submittal consists of all drawings and specification sections necessary for a complete construction bid package. All District comments will be addressed in this set and all disagreements and open issues will be resolved prior to submittal. The consultant shall prepare a final cost estimate for bidding purposes.

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#### **Contract #2, Task 4 – Bid and Award Support (*Future*)**

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The consultant will support the District in providing information during the bid and award phase and in reviewing the submitted bidder(s) information to support this phase.

##### *Task 4.1 – Attend Pre-Bid Meeting and Walk-Through*

The consultant will attend the pre-bid conference and site visit and be available to answer questions as necessary.

##### *Task 4.2 – Addendum Preparation*

All technical questions from prospective bidders requiring clarification to the contract will first be responded to by the consultant, prior to review by the District. Responses will then be issued by the District to all prospective bidders through the District website and if needed by addendum(s).

##### *Task 4.3 – Bid Evaluation*

Upon opening of the bids, the consultant will assist the District in evaluating the bids to determine if they are reasonable and suitable for award.

##### *Task 4.4 – Evaluation of Contractor Substitutions*

The consultant is required to review requested substitutions from named vendors submitted as part of the contractor's bid. It is expected that the consultant will complete

the analysis within 30 days of receipt of a complete and comprehensive substitution submittal from the contractor.

*Task 4.5 – Conformed Contract Drawings*

Upon conclusion of the bid period, the consultant will incorporate all modifications from addenda into the contract documents and issue a set of Conformed Contract Documents by EBMUD Board award date.

**Contract #3, Task 1 – Engineering Services During Construction (Future)**

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Once construction begins, the consultant will provide design-related services and carry out coordination responsibilities throughout the active construction period. The consultant is expected to clearly understand the construction schedule including recently completed work and upcoming planned work. The consultant will work closely and collaboratively with the District’s Construction Management (CM) staff to ensure coordination of critical engineering information throughout construction.

*Task 1.1 – Progress Meetings*

The consultant will attend all weekly construction progress meetings to support coordination with the key project stakeholders. The consultant will be prepared to discuss status of all deliverables (shop drawings, RFIs, change orders, etc.) and support timely resolution of design-related issues that may impact the project budget or schedule.

*Task 1.2 – Site Visits*

The consultant will conduct periodic site visits to ensure that the work is progressing per the contract documents and design intent. Visits will occur no less frequently than monthly and appropriate technical expertise will be provided based on work progress. The appropriate technical expert of the consultant team will also be on-site during identified “high-risk” work that would benefit from visual observation by the consultant. All high-risk work will be identified by the consultant and transmitted to the District’s CM as a TM.

Notes will be prepared after each site visit and will include observations on the quality of progressed work and identification of any areas that require closer oversight attention or upcoming work that requires specific instruction.

*Task 1.3 – Submittal/Shop Drawings Review*

The consultant will complete the initial review of all shop drawings submitted by the contractor(s) to ensure compliance with the Contract Documents, prior to District final review/approval. The target turnaround time (metric) is 14 calendar days. It is expected that all shop drawings will be returned to the contractor as Furnish as Corrected or Furnish as Submitted within no more than 3 submittal rounds. If issues with the quality of the shop drawings are identified, the consultant will bring it to the District’s attention to take corrective action with the contractor.

*Task 1.4 – Requests For Information/Clarification*

The consultant will evaluate and respond to the RFIs generated by the contractor and Requests for Clarification generated by the CM within five (5) calendar days unless it is a particular complex issue requiring additional examination.

*Task 1.5 – Preparation of Design-Related Change Orders*

In the event of a design-related change to the contract in which the contractor is entitled to a change in compensation, a change order must be processed. The consultant will evaluate and prepare all necessary design-related technical documents for change orders and participate in a scoping meeting with the CM and contractor for complex change orders that benefit from collaboration prior to scope finalization. In some cases, the consultant may be asked to support negotiation of the final change order with the CM and contractor.

*Task 1.6 – Factory Acceptance Testing and Field Testing Support*

The consultant will support the District with Factory Acceptance Testing and field testing of equipment. The consultant will review submitted test plans and report and provide on-site presence for Factory Acceptance Testing and field testing.

**Work performed by the District**

The following Tasks will be performed by the District in support of the Project:

1. General site survey of water treatment plant site.
2. Provide the consultant with all the water treatment plant drawings in MicroStation, AutoCAD, or Plant3D (for P&IDs) format.
3. Provide the consultant with any available process data, water quality data, and laboratory analyses of all related chemical feed systems.
4. Facilitate consultant's field verification of existing chemical, electrical, and mechanical systems.
5. Provide existing on-site utility maps.
6. Provide meeting rooms.
7. Provide assistance and coordination of key District staff required for the Project.
8. Integration of control signals into the Experion DCS Control System, programming of control points and process loops.
9. Updates on Hazardous Materials Business Plan/Plant Risk Management Plan.
10. CEQA preparation and approval, which is currently ongoing.
11. All front end of the construction contract specifications including Division 00 – Procurement and Contracting Document. Consultant support for development of specific front end specification sections will be captured as a task under Contract #2.
12. Overall contract administration, construction management, and day-to-day construction inspection, with support from the consultant, per Contract #3.

- End of Scope of Work -

## II. CALENDAR OF EVENTS

EVENT	DATE/LOCATION
RFP Issued	August 9, 2023
Mandatory Site Walk	August 24, 2023 at 9 a.m. Walnut Creek Water Treatment Plant 2201 Larkey Lane, Walnut Creek, CA
Response Due	October 11, 2023, 4:00 pm PDT
Consultant Team Interviews	Week of October 16, 2023 EBMUD Administration Building 375 11 <sup>th</sup> Street, Oakland, CA
Anticipated Consultant Selection	October 20, 2023
Contract Negotiation with Selected Team	October 20 – November 14, 2023
Anticipated Contract #1 Award Date	November 28, 2023
Estimated Contract #1 Duration	18 months

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

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

### A. MANDATORY SITE WALK/ PROPOSAL CONFERENCE

Mandatory site walk/Proposal conference will be held to:

1. Allow the District to discuss the scope of the project.
2. Provide Proposers an opportunity to view a site, receive documents, etc. necessary to respond to this RFP.
3. Provide an opportunity for Proposers to ask specific questions about the project and request RFP clarifications.
4. Provide the District with an opportunity to receive feedback regarding the project and RFP.

All questions deemed to be pertinent by the District will be addressed in Addenda following the site walk/Proposal conference.

### **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 Professional Service Providers, dependent upon what is in the best interest of the District.
4. The District has the right to decline to award this contract or any part of it for any reason.
5. Any specifications, terms, or conditions issued by the District, or those included in the Proposer's submission, in relation to this RFP, may be incorporated into any purchase order or contract that may be awarded as a result of this RFP.
6. Award of contract. The District reserves the right to reject any or all proposals, to accept one part of a proposal and reject the other, unless the proposer stipulates to the contrary, and to waive minor technical defects and administrative errors, as the interest of the District may require. Award will be made, or proposals rejected by the District as soon as possible after proposals have been opened.

#### **B. EVALUATION CRITERIA/SELECTION COMMITTEE**

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

The Selection Committee will evaluate each RFP response meeting the qualification requirements set forth in this RFP. Proposer should bear in mind that any RFP response that is unrealistic in terms of the technical or schedule commitments, or unrealistically high or low in cost, will be deemed reflective of an inherent lack of

technical competence or indicative of a failure to comprehend the complexity and risk of the District’s requirements as set forth in this RFP.

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

The Evaluation Criteria are as follows:

	<b>Evaluation Criteria</b>
<b>A.</b>	<p><b>Project Implementation Plan and Schedule:</b>                      An evaluation will be made of the likelihood that the Proposer’s implementation plan and schedule will effectively address the District’s needs.                      The proposed project approach and schedule will be evaluated considering the following factors:</p> <ol style="list-style-type: none"> <li>1. Is the project implementation plan and approach well thought out to efficiently meet project needs?</li> <li>2. Does the proposer have an understanding of the need to drive District stakeholders to consensus on key process decisions?</li> <li>3. Is the proposed level of effort appropriate for the scope of services?</li> <li>4. Does the Proposer have a plan to make staff available for field verification and O&amp;M engagement that is critical for successful upgrades to existing water treatment plants?</li> <li>5. Are the project risks adequately identified and addressed?</li> </ol>
<b>B.</b>	<p><b>Understanding of the Project:</b>                      The RFP response will be evaluated against the RFP specifications and the questions below:</p> <ol style="list-style-type: none"> <li>1. Has the Proposer demonstrated a thorough understanding of the purpose, scope, and deliverables of the project?</li> <li>2. Has the Proposer demonstrated a thorough understanding of the proposed treatment process upgrades, site constraints, operation and maintenance needs, construction challenges, applicable codes, and industry best-practices?</li> <li>3. How well has the Proposer identified pertinent issues and potential problems related to the project?</li> </ol>
<b>C.</b>	<p><b>Relevant Experience:</b>                      RFP responses will be evaluated against the RFP specifications and the questions below:</p> <ol style="list-style-type: none"> <li>1. Project Manager: Does the individual have a proven track record of leadership and performing the tasks required in this RFP?</li> </ol>

	<p>2. Treatment Process Lead: Does the individual have appropriate experience in water treatment upgrades for pretreatment, ozone, and solids handling?</p> <p>3. Electrical Lead: Does the individual have appropriate experience in power, standby power, and emergency power design and system upgrades, specifically for water treatment plants?</p> <p>4. Does the project team have the necessary background and experience required by the project?</p>
<b>D.</b>	<p><b>Quality Assurance &amp; Control Plan (QAC Plan):</b> The QAC Plan in the RFP response will be evaluated based on the following questions:</p> <p>1. Does the QAC Plan clearly demonstrate that the consultant will submit a high-quality work product?</p> <p>2. Is there a defined methodology that seems achievable, realistic, and likely to be adhered to?</p>
<b>E.</b>	<p><b>Presentation and Interview:</b> A consultant team of no more than 4 individuals (Project Manager, Project Engineer, Technical Leads) are required to give a presentation and respond to the Selection Committee’s questions regarding their approach, experience, and their specific RFP response.</p>
<b>F.</b>	<p><b>References (See Exhibit A – RFP Response Packet):</b> Provide 3 references minimum as required in Exhibit A</p>
<b>G.</b>	<p><b>Contract Equity Program:</b></p> <p>1. Proposer shall be eligible for SBE preference points if they are a certified small business entity, as described in the guidelines contained in Exhibit A-Contract Equity Program, <u>and</u> they check the appropriate box, requesting preference, in Exhibit A-Proposer Information and Acceptance.</p>

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

**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 THE RFP:

Attn: Sarah Plummer

EBMUD – Design Division

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

PHONE: (510) 287-2099

FOR INFORMATION ON THE CONTRACT EQUITY PROGRAM:

Attn: Contract Equity Office

PHONE: (510) 287-0114

AFTER AWARD:

Attn: Sarah Plummer

EBMUD – Design Division  
PHONE: (510) 287-2099

B. SUBMITTAL OF RFP RESPONSE

1. Late responses will not be accepted.
2. Electronic submittal is required. The RFP response in pdf format and prior to the bid due date/time RFP submittals, in their entirety, shall be emailed to [wcpretreatment@ebmud.com](mailto:wcpretreatment@ebmud.com). The District's email has limitations on attachment size. Make sure your response is less than 25 megabytes. If the file exceeds the limit, you will need to send multiple emails. Proposers are solely responsible for ensuring timely delivery of the proposals. The District shall not be responsible for any issues related to transfer of files through email. You may call at (510) 287-2099 to check receipt of the proposal.
3. RFP hardcopy 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 date and time, or at a place other than the stated address cannot be considered and will be returned to the Proposer unopened. All RFP responses must be received and time stamped at the stated address by the time designated. The Purchasing Division's timestamp shall be considered the official timepiece for the purpose of establishing the actual receipt of RFP responses.
4. Submit hardcopy proposals to:

Mailed:

Sarah Plummer, Associate Civil Engineer  
East Bay Municipal Utility District (Purchasing Dept)  
RFP No. 557-23-02: WCWTP Pretreatment Project  
375 11<sup>th</sup> Street, MS 102  
Oakland, CA 94607

Hand Delivered or delivered by courier or package delivery service:

Sarah Plummer, Associate Civil Engineer  
East Bay Municipal Utility District (Purchasing Dept)  
RFP No. 557-23-02: WCWTP Pretreatment Project  
375 11<sup>th</sup> Street, MS 102  
Oakland, CA 94607

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

5. Proposers are to submit one (1) original hardcopy RFP response (Exhibit A – RFP Response Packet, including Contract Equity Program forms and all additional documentation stated in the “Required Documentation and Submittals” section of Exhibit A), all with original ink signatures. Please include three (3) additional hardcopies of the RFP.
6. **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.
7. All costs required for the preparation and submission of an RFP response shall be borne by the Proposer.
8. 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.
9. 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.
10. 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.
11. 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 a re-typed or**

**otherwise re-created version of these documents or any other District-provided document.**

2. RFP responses, in whole or in part, are NOT to be marked confidential or proprietary. The District may refuse to consider any RFP response or part thereof so marked. RFP responses submitted in response to this RFP may be subject to public disclosure. The District shall not be liable in any way for disclosure of any such records.



# EXHIBIT A

## RFP RESPONSE PACKET

### RFP For – Walnut Creek Water Treatment Plant Pretreatment Project Design Services

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

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

#### RFP RESPONSE PACKET GUIDELINES

- **SUBMITTAL SHALL CONTAIN THE FOLLOWING:**
  - **EXHIBIT A – RFP RESPONSE PACKET**
    - **INCLUDING ALL REQUIRED DOCUMENTATION AS DESCRIBED IN “EXHIBIT A-REQUIRED DOCUMENTATION AND SUBMITTALS”**
- **PROPOSERS THAT DO NOT COMPLY WITH THE REQUIREMENTS AND/OR SUBMIT AN INCOMPLETE RFP RESPONSE MAY BE SUBJECT TO DISQUALIFICATION AND THEIR RFP RESPONSE REJECTED IN WHOLE.**
- **IF PROPOSERS ARE MAKING ANY CLARIFICATIONS AND/OR AMENDMENTS, OR TAKING EXCEPTION TO ANY PART OF THIS RFP, THESE MUST BE SUBMITTED IN THE EXCEPTIONS, CLARIFICATIONS, AND AMENDMENTS SECTION OF THIS EXHIBIT A – RFP RESPONSE PACKET. THE DISTRICT, AT ITS SOLE DISCRETION, MAY ACCEPT AMENDMENTS/EXCEPTIONS, OR MAY DEEM THEM TO BE UNACCEPTABLE, THEREBY RENDERING THE RFP RESPONSE DISQUALIFIED.**
- **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, and conditions and, if applicable, the site condition. By the submission of an RFP response, the Proposer certifies that if awarded a contract it will make no claim against the District based upon ignorance of conditions or misunderstanding of the specifications.
7. Patent indemnity: General or Professional Service Providers who do business with the District shall hold the District, its Directors, officers, agents, and employees harmless from liability of any nature or kind, including cost and expenses, for infringement or use of any patent, copyright or other proprietary right, secret process, patented or unpatented invention, article, or appliance furnished or used in connection with the contract or purchase order.
8. Insurance certificates are not required at the time of submission. However, by signing Exhibit A – RFP Response Packet, the Proposer agrees to meet the minimum insurance requirements stated in the RFP. This documentation must be provided to the District prior to execution of an agreement by the District

and shall include an insurance certificate which meets the minimum insurance requirements, as stated in the RFP.

9. The undersigned acknowledges that RFP responses, in whole or in part, are NOT to be marked confidential or proprietary. The District may refuse to consider any RFP response or part thereof so marked. RFP responses submitted in response to this RFP may be subject to public disclosure. The District shall not be liable in any way for disclosure of any such records.
10. The undersigned Proposer hereby submits this RFP response and binds itself to the District. The RFP, subsequent Addenda, Proposer's 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.

In spreadsheet format, show estimated labor hours for each prime and subconsultant job classification for the entire proposed scope of work. Estimate level of effort for mandatory and optional services. An example level of effort and cost estimate table is provided below for reference.

**LABOR DISTRIBUTION**

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

Services(\*)

I. Contracted Services

- Task 1:
- Task 2:
- Task 3:
- Task 4:
- Task 5:
- Optional Task 6:

TOTAL

- II. Contract #2 – Detailed Design (Future Contract)
- III. Contract #3 – ESDC (Future Contract)

**(\* 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, and clearly label each section of the RFP response with the appropriate title (e.g., Table of Contents, Letter of Transmittal, Key Personnel).

1. **Letter of Transmittal (maximum 2 pages):** The proposal response shall include a description of the Proposer’s capabilities and approach in providing its services to the District and provide a brief synopsis of the highlights of the proposal and overall benefits to the District. This synopsis should not exceed two (2) pages in length and should be easily understood.
2. **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.
3. **Project Understanding, Project Approach, and Project Team Description (maximum 10 pages):** The RFP response should include a narrative describing the proposer’s understanding of the project, project approach, and project team description. The project approach can include proposals to improve the proposed processes, reduce cost, improve reliability, shorten the schedule, and simplify construction sequencing while still meeting the project objectives. This section shall not exceed ten (10) pages in length and should be clearly written.
4. **Key Personnel:** The RFP response shall include an organizational chart for the project team that shows a complete list of all key personnel associated with the RFP (maximum 2 pages for organizational chart and list of personnel). For each person on the list, the following information shall be included:
  - a. The person’s relationship with the Proposer, including job title and years of employment with the Proposer;
  - b. The role that the person will play in connection with the RFP;
  - c. The person’s primary office location, telephone number, and e-mail address;
  - d. The person’s educational background; and
  - e. The person’s relevant experience, certifications, and/or merits (maximum 2 pages per person)
5. **Staffing Plan for Local Tasks (maximum 1 page):** This section shall designate which personnel will perform field verifications and other design tasks requiring a significant on-site presence. Include a description of how the Proposer plans to provide staff for on-site tasks (e.g., use local staff within driving distance of the facilities, have staff travel in weekly for task durations, temporarily relocate staff).

- 6. Experience and Relevant Projects (6 Pages):** Consultants must submit information demonstrating, for the proposed personnel, technical experience relevant to the scope of work described in the RFP, including:
  - a. Client name(s) and project name;
  - b. Project scope of work summary;
  - c. Proposer roles and responsibilities on the project;
  - d. Proposer team members who worked on the project, if any; and
  - e. Date when the project was performed (start/end dates).
  
- 7. Contract #1 Implementation Plan (maximum 3 pages) and Schedule (maximum 2 pages, 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 risks that the Proposer believes may adversely affect the schedule.
  
- 8. Level of Effort (maximum 3 pages, 11"x17" acceptable):** For each of the tasks, 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.
  
- 9. Quality Assurance and Control (QAC) Plan (maximum 2 pages):** The proposal shall include a Quality Assurance and Control (QAC) Plan that is specific and customized to this project, detailing the methodology the Proposer will use to ensure a high-quality work product. The QAC plan must include an independent review by an individual that is an expert in safety and code compliance.
  
- 10. References:** References should have similar scope, volume, and requirements to those outlined in these specifications, terms, and conditions.
  - a. Proposers must use the templates in the "References" section of this Exhibit A – RFP Response Packet to provide references.
  - b. Proposers must verify the contact information for all references provided is current and valid.
  - c. Proposers are strongly encouraged to notify all references that the District may be contacting them to obtain a reference.
  - d. The District may contact some or all of the references provided in order to determine Proposer's performance record on work similar to that described in this RFP. The District reserves the right to contact references other than those provided in the RFP response and to use the information gained from them in the evaluation process.
  
- 11. Sample Drawings (Not counted in page count):** Provide sample drawings (no more than 30) in 11"x17" format that show sample ballasted flocculation, ozone, and/or dewatering systems, site layouts, mechanical details, P&IDs, and single-line diagrams. Drawings created in 3D BIM platform are preferred.

**12. Exceptions, Clarifications, Amendments (Not counted in page count):**

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

**13. Contract Equity Program (Not counted in page count):** 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 on the last page of this Exhibit A. **Special attention should be given to completing Form P-25, "Employment Data and Certification"; and Form P-46, "Designation of Subcontractors."** Any proposer needing assistance in completing these forms should contact the District's Contract Equity Office at (510) 287-0114 prior to submitting an RFP response.



## REFERENCES

### RFP For – Walnut Creek Water Treatment Plant Pretreatment Project Design Services

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 - Walnut Creek Water Treatment Plant Pretreatment Project Design Services

**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:	\$20,000,000
Aggregate Limit:	\$20,000,000

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

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

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

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

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

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

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

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

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

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

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

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

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

**VI. Cyber Liability Insurance Coverage**

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

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

C. Minimum Requirements: Cyber 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. Coverage shall include, but not be limited to the following:

1. Liability arising from the theft, dissemination and/or use of confidential information, including but not limited to, personally identifiable information (PII), protected health information (PHI), security codes, access codes, passwords, or personal identification numbers (PINS).

2. Notification costs, credit monitoring and other expert services, regulatory fines and penalties, and defense costs.

3. Network security liability arising from the unauthorized use of, access to, or tampering with computer systems.

4. Liability arising from the introduction of a computer virus into, or otherwise causing damage to vendor (first party) or customer's (third party) computer, computer system, network or similarly related property and the data, software and programs thereon.

### Verification of Cyber Liability Insurance Coverage

As the CONTRACTOR'S insurance broker/agent, I hereby verify that I have reviewed and confirmed that the CONTRACTOR carries Cyber 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. Technology Errors and Omissions Liability Insurance Coverage**

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

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

C. Minimum Requirements: Technology Errors and Omissions 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. Coverage shall include, but not be limited to the following:

1. Theft, dissemination and/or use of confidential or personally identifiable information (PII), including breach response costs, credit monitoring and regulatory fines and penalties from such theft, dissemination or use of the confidential information;

2. Network security liability arising from the unauthorized use of access to, or tampering with computer systems;

3. Liability arising from the failure of technology products (software) required under the contract for Contractor to properly perform the services intended;

4. Electronic Media Liability arising from personal injury, plagiarism or misappropriation of ideas, domain name infringement or improper deep-linking or framing, and infringement or violation of intellectual property rights;

5. Liability arising from the failure to render professional services.

## Verification of Technology Errors & Omissions Liability Insurance Coverage

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

### VIII. Excess and/or Umbrella Liability Insurance Coverage

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

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

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

1. Coverage for Products, Completed Operations, and Ongoing Operations must be included in the insurance policies and shall not contain any "prior work" coverage limitation or exclusion applicable to any Services performed under this Agreement and, if it is a claims-made policy, it must be maintained for a minimum of three (3) years following final completion of the Services.
2. Coverage shall be included for all premises and operations in any way related to this Agreement.
3. There will be no exclusion for explosions, collapse, or underground damage (XCU).

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

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

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

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

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

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

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

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

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

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

**Policy 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 AND PROFESSIONAL SERVICES AGREEMENT**

**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.
- 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.

### 7.5 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 *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.

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

## **ARTICLE 10 - TERM**

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

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

**EAST BAY MUNICIPAL UTILITY DISTRICT**

By: \_\_\_\_\_  
*(Name),*  
*(Director of Engineering and Construction)*

Date \_\_\_\_\_

Approved As To Form

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

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

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

Date \_\_\_\_\_

**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>
<i>\$(dollars)</i>	<i>\$(dollars)</i>	<i>\$(dollars)</i>

***\* (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. DISTRICT shall pay CONSULTANT within thirty (30) days, upon receipt of a proper CONSULTANT invoice, 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.

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.

(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**						Total
	Direct Labor				Indirect Costs	ODCs*	Subconsultant # 1			Subconsultant # 2			
	Project Manager	Project Engineer	Drafting				Project Engineer	Assist. Engineer		Project Engineer	Assist. Engineer		
Hourly Rate (\$/hr.)	(***)	(***)	(***)	Total			(***)	(***)	Total Cost	(***)	(***)	Total Cost	
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***						Total
					Subconsultant # 1			Subconsultant # 2			
	Project Manager	Project Engineer	Drafting	Subtotal	Project Engineer	Assist. Engineer	Subtotal	Project Engineer	Assist. Engineer	Subtotal	
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>
<i>(Name of Subconsultant's firm)</i>	<i>\$(dollars)</i>	<i>(1 to 99)</i>
<i>(Name of Subconsultant's firm)</i>	<i>\$(dollars)</i>	<i>(1 to 99)</i>
TOTAL	<i>\$(dollars)</i>	<i>(1 to 99)</i>

\* 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**

**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, 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:	\$20,000,000
Aggregate Limit:	\$20,000,000

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **VI. Cyber Liability Insurance Coverage**

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

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

C. Minimum Requirements: Cyber 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. Coverage shall include, but not be limited to the following:

1. Liability arising from the theft, dissemination and/or use of confidential information, including but not limited to, personally identifiable information (PII), protected health information (PHI), security codes, access codes, passwords, or personal identification numbers (PINS).
2. Notification costs, credit monitoring and other expert services, regulatory fines and penalties, and defense costs.
3. Network security liability arising from the unauthorized use of, access to, or tampering with computer systems.
4. Liability arising from the introduction of a computer virus into, or otherwise causing damage to vendor (first party) or customer's (third party) computer, computer system, network or similarly related property and the data, software and programs thereon.

### **Verification of Cyber Liability Insurance Coverage**

**As the CONTRACTOR'S insurance broker/agent, I hereby verify that I have reviewed and confirmed that the CONTRACTOR carries Cyber 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. Technology Errors and Omissions Liability Insurance Coverage**

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

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

C. Minimum Requirements: Technology Errors and Omissions 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. Coverage shall include, but not be limited to the following:

1. Theft, dissemination and/or use of confidential or personally identifiable information (PII), including breach response costs, credit monitoring and regulatory fines and penalties from such theft, dissemination or use of the confidential information;

2. Network security liability arising from the unauthorized use of access to, or tampering with computer systems;
3. Liability arising from the failure of technology products (software) required under the contract for Contractor to properly perform the services intended;
4. Electronic Media Liability arising from personal injury, plagiarism or misappropriation of ideas, domain name infringement or improper deep-linking or framing, and infringement or violation of intellectual property rights;
5. Liability arising from the failure to render professional services.

**Verification of Technology Errors & Omissions Liability Insurance Coverage**

**As the CONTRACTOR’S insurance broker/agent, I hereby verify that I have reviewed and confirmed that the CONTRACTOR carries Technology Errors & Omissions 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:** \_\_\_\_\_

**VIII. Excess and/or Umbrella Liability Insurance Coverage**

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

B. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policies or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is

broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the CONTRACTOR.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Policy 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 D IRAN CONTRACTING ACT CERTIFICATION

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

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

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

### CERTIFICATION FOR PARAGRAPH 1:

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

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

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

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

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

**OR**

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