

REQUEST FOR PROPOSAL (RFP) for Industrial Hygiene & Environmental Sampling Services (RFP # IHES-2024)

ADDENDA

Prospective bidders are responsible for reviewing any published addenda regarding this bid at ebmud.com/business-center/

CONTACT

Justin Singh

Senior Environmental Health and Safety Specialist

510-287-1396

justin.singh@ebmud.com

**TO ENSURE TIME FOR RESPONSE, SUBMIT QUESTIONS BY
NOVEMBER 6, 2023 12p.m. PST, ELECTRONICALLY TO:**

Justin Singh

Senior Environmental Health and Safety Specialist

justin.singh@ebmud.com

RESPONSE DUE

November 13, 2023 by 11:00 a.m. PST

SUBMIT ELECTRONICALLY TO

Justin Singh

Senior Environmental Health and Safety Specialist

justin.singh@ebmud.com

**Hardcopy proposals will not be accepted at this time.*

EAST BAY MUNICIPAL UTILITY DISTRICT

Request for Proposal

for

Industrial Hygiene & Environmental Sampling Services

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I. STATEMENT OF WORK

A. SCOPE

The East Bay Municipal Utility District (hereinafter referred to as EBMUD or the “District”) is a publicly owned multi-purpose agency that supplies drinking water to 30 East Bay communities and treats wastewater generated by nine of those communities. The District serves a 317 square mile area in Alameda and Contra Costa Counties and also operates facilities in Amador, Calaveras, San Joaquin, and Sacramento counties.

It is the intent of these specifications, terms, and conditions to describe the necessary elements required for establishing and maintaining a general services contract for Industrial Hygiene and Environmental Sampling Services (IH&ESS) on an on-call and as needed basis to support various Regulatory Compliance Office (RCO), which includes Workplace Health & Safety and Environmental Compliance, programs for the District and to maintain compliance with applicable regulations (Cal-OSHA, EPA, BAAQMD, etc.).

The District intends to award a three-year contract (with two options to renew for one-year terms) for an estimated amount of up to \$500,000 per year to the Proposer(s) who best meets the District’s requirements. The District intends to select one or more consultant(s) to provide these services on an “as-needed” basis. The IH&ESS consultant may act as the prime contractor and project manager for any outside services, subconsultants, or subcontractors needed to fulfill the entire scope of services. Due to the broad scope of possible projects, the District will also accept individual bids on portions of this RFP. The District makes no guarantees concerning the actual quantity or type of work that will result from this procurement.

The work will require specific expertise, necessary certifications, and resources/equipment for the assessment of ongoing and emerging industrial hygiene and environmental issues related to capital improvement projects, hazardous building material assessments and abatement oversight, exposure assessments, waste management characterization, trench soils management, and groundwater contamination. Projects can include non-time critical projects requiring several months of ongoing level of effort. The types of services (complexity and diversity) will vary, and the IH&ESS consultant must be capable of completing multiple (simultaneous or sequential) investigations and reports and meeting multiple deadlines. A detailed description of the capabilities requested is provided below:

1. Capital Project Support & Hazardous Building Materials Related Support Services
 - a. Pre-Project Hazardous Building Material & Site Characterizations, including Waste Characterization and Profiling for Proper Waste Management
 - b. Naturally Occurring Asbestos (NOA) Surveys

- c. Asbestos, Lead and/or Hazardous Building Material Surveys
 - d. Development of Specifications for Abatement and/or Remediation of Hazardous Building Materials (Asbestos, Lead, PCBs, etc.)
 - e. Hazardous Material Abatement Oversight and Air Monitoring (Asbestos, Lead, PCBs, etc.)
2. Industrial Hygiene Related Support Services
- a. Personal Exposure and Area Air Sampling for Various Airborne Contaminants (*i.e.*, Asbestos, Lead, Silica, Welding Fume, VOCs, Laboratory Chemicals, etc.)
 - b. Indoor Air Quality Assessments
 - c. Mold Investigations, Mold Remediation Oversight and Validation Testing
 - d. Personal and Area Noise Exposure Surveys
 - e. Ventilation System Surveys
 - f. Illumination Surveys
 - g. Development and Oversight of Site-Specific Health and Safety Plans in Accordance with CCR T8 §5192
 - h. Individual Industrial Hygiene/Safety and Environmental Program Audits (review of internal EBMUD policies/procedures/practices)
 - i. Other Industrial Hygiene/Safety and Consultation Support Services, As Needed
3. Environmental Related Support Services
- a. Trench Soils and Groundwater Pre-Characterization Sampling for Pipeline Projects; including:
 - (1) Soil and Groundwater Sampling & Characterization, Including Waste Characterization and Identifying Potential Worker Health & Safety Concerns
 - (2) Obtaining Necessary City/County Permits for Street and Drilling Work & Developing Necessary Traffic Control Plans
 - b. Other Environmental Testing and Consultation Support Services, As Needed

We are seeking technical proposals from consultants that can provide the necessary experience and qualifications to perform the industrial hygiene and environmental consulting services mentioned above. Historically, most of the work has occurred within Alameda and Contra Costa counties on a non-time critical nature; however, the consultant shall have the capabilities to respond to time critical tasks in all geographic areas within District operations. Please note, due to the broad scope of possible projects the District will also accept individual bids on portions of this RFP. In these cases your proposal must capture the focused services and qualifications your firm is able to provide. If the Proposer is planning to team up with subconsultants and/or subcontractors to provide any services, the Proposer shall identify team members and their roles in the proposal.

B. PROPOSER QUALIFICATIONS

1. Proposer Minimum Qualifications

- a. Proposer, Proposer's principal, or Proposer's staff shall have been regularly engaged in the business of providing industrial hygiene and/or environmental sampling services for at least five (5) years.
- b. Proposer shall have a Certified Industrial Hygienist (CIH) on staff or part of the team if bidding on the project for all tasks listed under *Section A(1)* and *Section A(2)*.
- c. Proposer shall be or have a Certified Asbestos Consultant (CAC) on staff or part of the team if bidding on the project for all asbestos related tasks listed under *Section A(1)* and *Section A(2)*. *Note: A Certified Site Surveillance Technician (CSST) can work under the direction of a CAC to complete these tasks, where permitted by regulation.*
- d. Proposer shall be or have a California Department of Public Health (CDPH) Certified Lead Professional on staff or part of the team if bidding on the project for all lead related tasks listed under *Section A(1)* and *Section A(2)*. *Note: A Certified Sampling Technician can work under direct supervisor of a Certified Inspector/Assessor, where permitted by regulation.*
- e. Proposer shall be or have a State Certified Professional Geologist on staff or part of the team if bidding on Naturally Occurring Asbestos related tasks related under *Section A(1)(b)*.
- f. Proposer shall be or have a qualified Environmental Professional on staff or part of the team if bidding on all tasks listed under *Section A(3)*; typical qualifications for an Environmental Professional may include but are not limited to Professional Engineer, Professional Geologist and/or Professional Hydrogeologist.

- g. Proposer shall possess all permits, licenses, and professional credentials necessary to perform services as specified under this RFP.

C. SPECIFIC REQUIREMENTS

1. Except for activities requiring emergency response, all contract projects will first require a time and material cost proposal approved by the District. Project cost proposals are not to be exceeded according to the proposed costs for individual project task(s), unless approved by the District IH&ESS contract manager or assigned District project manager. The types of services will vary in complexity and depth of expertise and the Consultant must provide all the expertise, labor, and materials to complete various investigations and reports on time.
2. All contract projects and IH&ESS consultants selected are expected to follow all applicable Environmental, Health and Safety regulations including EPA, BAAQMD, and Cal-OSHA. For exposure and hazard assessments all applicable industrial hygiene standards and methods shall be used at all times, unless standards are not available, then American Conference of Governmental Industrial Hygienists (ACGIH) or National Institute of Occupational Health and Safety (NIOSH) standards will be used. All sampling media shall be analyzed by an accredited laboratory. Analyze results and compare results to Cal-OSHA standards or appropriate standards and regulations. Recommendations should be provided when appropriate.
3. Each proposer shall provide a single point of contact for District staff. In the event this person is not available, an alternate person(s) who is familiar with on-going projects should be assigned as an alternate point of contact.
4. If the Proposer is planning to team up with subconsultants and/or subcontractors to provide all before mentioned services, the Proposer shall identify team members and their roles in the proposal including relevant qualifications and experience.

D. DELIVERABLES / REPORTS

1. Candidates must demonstrate the ability to provide technical reports summarizing investigation results, interpreting complex data, and containing conclusions and recommendations.
2. All prepared documents shall comply with applicable regulatory requirements for submittal to federal, state, or local agencies. Reports should present data in tables, graphs, figures, or other format for ease of presentation and understanding.

- a. Document management and control tools should be easily accessible to multiple District project managers for review of draft and final versions. Electronic versions should be considered for cost savings to the extent possible.
 - b. Types of reports include data presentation reports, results of studies or inspections/audits, technical memorandum, or certified reports stamped by a qualified scientist or engineer.
 - c. All reports shall be accompanied with the associated data available in spreadsheet format (.xlsx, .csv, etc.) with appropriate headers for upload into District databases. Specific formatting may be requested on a per project basis.
3. Administrative reports requested may include contract project status and contract equity reports.

II. CALENDAR OF EVENTS

EVENT	DATE/LOCATION
RFP Issued	October 18, 2023
Submit Questions, if any, by	November 6, 2023, 12:00 p.m. PST
Response Due	November 13, 2023 by 11:00 a.m. PST
Oral Presentation and Interview	December 6-7, 2023
Select Firm	December 19, 2023
Anticipated Contract Award Date	February 27, 2024

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.

All questions deemed to be pertinent by the District will be addressed in Addenda that will be posted on District’s website.

A. ORAL PRESENTATION AND INTERVIEW

Following the review of all submitted proposals, the District will invite the most suitable Proposers to a formal oral interview. Identified Proposers will receive a notification with their assigned timeslot.

The intent of the oral interview is to evaluate the Proposer’s key staff members’ ability to demonstrate a clear understanding of the scope of services and respective regulatory

requirements in addition to exhibiting sound communication skills and ability to work effectively as a team.

All questions deemed to be pertinent by the District will be addressed in Addenda that will be posted on District's website.

III. DISTRICT PROCEDURES, TERMS, AND CONDITIONS

A. RFP ACCEPTANCE AND AWARD

1. RFP responses will be evaluated by the Selection Committee and will be scored and ranked in accordance with the RFP section entitled "Evaluation Criteria/Selection Committee."
2. The Selection Committee will recommend award to the Proposer who, in its opinion, has submitted the RFP response that best serves the overall interests of the District. Award may not necessarily be made to the Proposer with the lowest overall cost.
3. The District reserves the right to award to a single or to multiple General or Professional Service Providers, dependent upon what is in the best interest of the District.
4. The District has the right to decline to award this contract or any part of it for any reason.
5. Any specifications, terms, or conditions issued by the District, or those included in the Proposer's submission, in relation to this RFP, may be incorporated into any purchase order or contract that may be awarded as a result of this RFP.
6. Award of Contract. The District reserves the right to reject any or all proposals, to accept one part of a proposal and reject the other, unless the proposer stipulates to the contrary, and to waive minor technical defects and administrative errors, as the interest of the District may require. Award will be made, or proposals rejected by the District as soon as possible after proposals have been opened.

B. EVALUATION CRITERIA/SELECTION COMMITTEE

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

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

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

The Evaluation Criteria are as follows:

	Evaluation Criteria
A.	<p>Technical Criteria: In each area described below, an evaluation will be made of the probability of success of, and risks associated with, the RFP response:</p> <ol style="list-style-type: none"> 1. <u>Previous Experience</u>: The Proposer’s, including key staff, experience and performance with a comparable scope of services will be evaluated. Criteria include but are not limited to experience with sampling a wide range of materials, developing comprehensive sampling plans in accordance with regulations and industry best practices, streamlining sampling of similar waste streams, and coordinating required analyses with State-certified laboratories. 2. <u>Scope of Services Approach</u>: The Proposer’s demonstrated understanding of the scope of services and approach to conducting the work will be evaluated. Criteria include, but are not limited to, ability to coordinate multiple client projects, handle unique sampling issues, and streamline sampling to minimize costs. 3. <u>Ancillary Services</u>: A comparison will be made of the proposed services with the requirements of this RFP. Credit will be given for convenience, responsiveness, and technical expertise.
B.	<p>Cost: <u>Given the contract’s open cost structure, the Proposer’s approach toward ensuring cost accountability will be evaluated. Important considerations include billing rates and availability of relevant equipment and resources.</u></p>
C.	<p>Relevant Experience: RFP responses will be evaluated against the RFP specifications and the questions below:</p> <ol style="list-style-type: none"> 1. Do the individuals assigned to the project have experience on similar projects?

	<ol style="list-style-type: none"> 2. Are résumés complete and do they demonstrate backgrounds that would be desirable for individuals engaged in the work the project requires? 3. How extensive is the applicable education and experience of the personnel designated to work on the project?
D.	<p>References (See Exhibit A – RFP Response Packet): The Proposer’s list of references for successfully completed and/or ongoing projects similar to those described in the scope of services will be contacted to verify reliability and quality of work performed.</p>
E.	<p>Oral Presentation and Interview: Following the review of all submitted proposals, the District will invite the most suitable Proposers to a formal oral interview. Identified Proposers will receive a notification with their assigned timeslot. The oral interview may consist of standard questions asked of each of the Proposers and specific questions regarding the specific RFP response.</p> <ol style="list-style-type: none"> 1. The intent of the oral interview is to evaluate the Proposer’s key staff members’ ability to demonstrate a clear understanding of the scope of services and respective regulatory requirements, in addition to exhibiting sound communication skills and ability to work effectively as a team. 2. The Proposer is allowed 20 minutes to present their proposal, followed by a 25-minute interview period.
F.	<p>Understanding of the Scope of Services: RFP responses will be evaluated against the RFP specifications and the questions below:</p> <ol style="list-style-type: none"> 1. Has the Proposer demonstrated a thorough understanding of the purpose and scope of services? 2. How well has the Proposer identified pertinent issues and potential problems related to the project? 3. Has the Proposer provided an inventory or ability to obtain its sampling equipment, supply sources, and laboratory resources? 4. Has the Proposer demonstrated that it understands the deliverables the District expects it to provide?
G.	<p>Methodology: RFP responses will be evaluated against the RFP specifications and the questions below:</p> <ol style="list-style-type: none"> 1. Does the methodology depict a logical approach to fulfilling the requirements of the RFP? 2. Does the methodology match and contribute to achieving the objectives set out in the RFP? 3. Does the methodology interface with the District’s time schedule?

H.	<p>Contract Equity Program: Proposer shall be eligible for SBE or DVBE preference points if they are a certified small business entity, as described in the guidelines contained in Exhibit A-Contract Equity Program, <u>and</u> they check the appropriate box, requesting preference, in Exhibit A-Proposer Information and Acceptance. Qualified DVBEs and/or SBEs will receive an additional 5 points to their total score.</p>
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C. PRICING

1. Prices quoted shall be firm for the three years of any contract that may be awarded pursuant to this RFP.
2. All prices quoted shall be in United States dollars.
3. Price quotes shall include any and all payment incentives available to the District.
4. Proposers are advised that in the evaluation of cost, if applicable, it will be assumed that the unit price quoted is correct in the case of a discrepancy between the unit price and extended price.

D. NOTICE OF INTENT TO AWARD AND PROTESTS

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

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

Protests must be in writing and must be received no later than seven (7) workdays after the District issues the Notice of Intent to Award. The District will reject the protest as untimely if it is received after this specified time frame. Protests will be accepted from proposers or potential proposers only.

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

Proposal protests must contain a detailed and complete written statement describing the reason(s) for protest. The protest must include the name and/or number of the proposal, the name of the firm protesting, and include a name, telephone number, email address and physical address of the protester. If a firm is representing the protester, they shall include their contact information in addition to that of the protesting firm.

Protests must be mailed, hand delivered, or emailed to the Manager of Purchasing, Mailstop 102, East Bay Municipal Utility District, 375 Eleventh Street, Oakland, CA 94607 or P.O. Box 24055, Oakland, California 94623. Facsimile and electronic mail protests must be followed by a mailed or hand delivered identical copy of the protest and must arrive within the seven workday time limit. Any proposal protest filed with any other District office shall be forwarded immediately to the Manager of Purchasing.

In the event that the protest is denied, the protester can appeal the determination to the requesting organization's Department Director. The appeal must be submitted to the Department Director no later than five (5) workdays from the date which the protest determination was transmitted by the District, to the protesting party. The appeal shall focus on the points raised in the original protest, and no new points shall be raised in the appeal.

Such an appeal must be made in writing and must include all grounds for the appeal and copies of the original protest and the District's response. The proposal protester must also send the Purchasing Division a copy of all materials sent to the Department Director.

The Department Director will make a determination of the appeal and respond to the protester by certified mail in a timely manner. If the appeal is denied, the letter will include the date, time, and location of the Board of Directors meeting at which staff will make a recommendation for award and inform the protester it may request to address the Board of Directors at that meeting.

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

E. INVOICING

1. Following the Districts acceptance of product(s) meeting all specified requirements, and/or the complete and satisfactory performance of services, the District will render payment within thirty (30) days of receipt of a correct invoice.

2. The District will notify the 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.

F. LIQUIDATED DAMAGES

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

IV. RFP RESPONSE SUBMITTAL INSTRUCTIONS AND INFORMATION

A. DISTRICT CONTACTS

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

FOR INFORMATION REGARDING TECHNICAL SPECIFICATIONS & SCOPE OF SERVICES:

Attn: Justin Singh, Sr. Environmental Health and Safety Specialist
EBMUD Regulatory Compliance Office
E-Mail: justin.singh@ebmud.com
PHONE: (510) 287-1396

FOR INFORMATION ON THE CONTRACT EQUITY PROGRAM:

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

AFTER AWARD:

Attn: Justin Singh, Sr. Environmental Health and Safety Specialist
EBMUD Regulatory Compliance Office
E-Mail: justin.singh@ebmud.com
PHONE: (510) 287-1396

B. SUBMITTAL OF RFP RESPONSE

1. At this time, no hardcopy proposals will be accepted. Upload your RFP response in pdf format and prior to the bid due date/time RFP submittals, in their entirety,

shall be emailed to justin.singh@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 Justin Singh at (510) 287-1396 to check receipt of the proposal.

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

C. RESPONSE FORMAT

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



EXHIBIT A
RFP RESPONSE PACKET
RFP for Industrial Hygiene & Environmental Sampling Services

To: East Bay Municipal Utility District (“District”)

From: _____
(Official Name of Proposer)

RFP RESPONSE PACKET GUIDELINES

- **SUBMITTAL SHALL CONTAIN THE FOLLOWING:**
 - **EXHIBIT A – RFP RESPONSE PACKET**
 - **INCLUDING ALL REQUIRED DOCUMENTATION AS DESCRIBED IN “EXHIBIT A-REQUIRED DOCUMENTATION AND SUBMITTALS”**
- **PROPOSERS THAT DO NOT COMPLY WITH THE REQUIREMENTS, AND/OR SUBMIT AN INCOMPLETE RFP RESPONSE MAY BE SUBJECT TO DISQUALIFICATION AND THEIR RFP RESPONSE REJECTED IN WHOLE.**
- **IF PROPOSERS ARE MAKING ANY CLARIFICATIONS AND/OR AMENDMENTS, OR TAKING EXCEPTION TO ANY PART OF THIS RFP, THESE MUST BE SUBMITTED IN THE EXCEPTIONS, CLARIFICATIONS, AND AMENDMENTS SECTION OF THIS EXHIBIT A – RFP RESPONSE PACKET. THE DISTRICT, AT ITS SOLE DISCRETION, MAY ACCEPT AMENDMENTS/EXCEPTIONS, OR MAY DEEM THEM TO BE UNACCEPTABLE, THEREBY RENDERING THE RFP RESPONSE DISQUALIFIED.**
- **PROPOSORS SHALL NOT MODIFY DISTRICT LANGUAGE IN ANY PART OF THIS RFP OR ITS EXHIBITS, NOR SHALL THEY QUALIFY THEIR RFP RESPONSE BY INSERTING THEIR OWN LANGUAGE OR FALSE CLAIMS IN THEIR RESPONSE. ANY EXCEPTIONS AND CLARIFICATIONS MUST BE PLACED IN THE “EXCEPTIONS/ CLARIFICATIONS” PAGE, NOT BURIED IN THE PROPOSAL ITSELF.**



PROPOSER INFORMATION AND ACCEPTANCE

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

Addendum #	Date

4. The undersigned hereby certifies to the District that all representations, certifications, and statements made by the Proposer, as set forth in this RFP Response Packet and attachments, are true and correct and are made under penalty of perjury pursuant to the laws of California.
5. The undersigned acknowledges that the Proposer is, and will be, in good standing in the State of California, with all the necessary licenses, permits, certifications, approvals, and authorizations necessary to perform all obligations in connection with this RFP and associated RFP documents.
6. It is the responsibility of each Proposer to be familiar with all of the specifications, terms, and conditions and, if applicable, the site condition. By the submission of an RFP response, the Proposer certifies that if awarded a contract it will make no claim against the District based upon ignorance of conditions or misunderstanding of the specifications.

7. Patent indemnity: General or Professional Service Providers who do business with the District shall hold the District, its Directors, officers, agents, and employees harmless from liability of any nature or kind, including cost and expenses, for infringement or use of any patent, copyright or other proprietary right, secret process, patented or unpatented invention, article, or appliance furnished or used in connection with the contract or purchase order.
8. Insurance certificates are not required at the time of submission. However, by signing Exhibit A – RFP Response Packet, the Proposer agrees to meet the minimum insurance requirements stated in the RFP. This documentation must be provided to the District prior to execution of an agreement by the District and shall include an insurance certificate which meets the minimum insurance requirements, as stated in the RFP.
9. The undersigned acknowledges that RFP responses, in whole or in part, are NOT to be marked confidential or proprietary. The District may refuse to consider any RFP response or part thereof so marked. RFP responses submitted in response to this RFP may be subject to public disclosure. The District shall not be liable in any way for disclosure of any such records.
10. The undersigned Proposer hereby submits this RFP response and binds itself to the District. The RFP, subsequent Addenda, Proposers Response Packet, and any attachments, shall be used to form the basis of a Contract, which once executed shall take precedence.
11. The undersigned acknowledges **ONE** of the following (please check only one box)*:
 - Proposer is not an SBE nor a DVBE and is ineligible for any Proposal preference; **OR**
 - Proposer is an SBE or DVBE as described in the Contract Equity Program (CEP) and Equal Employment Opportunity (EEO) Guidelines, and has completed the CEP and EEO forms at the hyperlink contained in the CEP and EEO section of this Exhibit A.

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

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

Street Address Line 1: _____

Street Address Line 2: _____

City: _____ State: _____ Zip Code: _____

Webpage: _____

Type of Entity / Organizational Structure (check one):

Corporation

Joint Venture

Limited Liability Partnership

Partnership

Limited Liability Corporation

Non-Profit / Church

Other: _____

Jurisdiction of Organization Structure: _____

Date of Organization Structure: _____

Federal Tax Identification Number: _____

Department of Industrial Relations (DIR) Registration Number: _____

Primary Contact Information:

Name / Title: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

Street Address Line 1: _____

City: _____ State: _____ Zip Code: _____

SIGNATURE: _____

Name and Title of Signer (printed): _____

Dated this _____ day of _____ 20_____



PROPOSAL FORM

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

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

Quantities listed herein are annual estimates based on past usage and are not to be construed as a commitment. No minimum or maximum is guaranteed or implied.

Description	Unit of Measure	Estimated Quantity	Unit Cost	Extended Cost
Senior Consultant	/hour		\$	\$
Junior Consultant	/hour		\$	\$
TOTAL COST				\$



REQUIRED DOCUMENTATION AND SUBMITTALS

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

1. **Table of Contents:** The Proposal shall include a table of contents listing the individual sections of the proposal and their corresponding page numbers.
2. **Letter of Transmittal:** RFP response shall include a description of the Proposer’s capabilities and approach in providing its services to the District and provide a brief synopsis of the highlights of the RFP response and overall benefits to the District. Additionally, the response shall include which scope of services the Proposal is intending to qualify for as listed in the RFP Packet, Section I(A):
 1. Capital Project Support & Hazardous Building Materials Related Support Services
 2. Industrial Hygiene Related Support Services
 3. Environmental Related Support Services

This synopsis should not exceed three (3) pages in length and should be easily understood.

3. **Key Personnel:** RFP response shall include a complete list of all key personnel associated with the RFP. This list must include all key personnel who will provide services/training to District staff and all key personnel who will provide maintenance and support services. For each person on the list, the following information shall be included:
 - (a) The person’s relationship with the Proposer, including job title and years of employment with the Proposer;
 - (b) The role that the person will play in connection with the RFP;
 - (c) The person’s telephone number and e-mail address;
 - (d) The person’s educational background; and
 - (e) The person’s relevant experience, certifications, and/or merits
4. **Description of the Proposed Services:** RFP response shall include a description of the terms and conditions of services to be provided during the contract term, including response times where appropriate. The description must: (1) specify how the services in the RFP response will meet or exceed the requirements of the District; (2) explain any special resources or approaches that make the services of the Proposer particularly advantageous to the District;

and (3) identify any limitations or restrictions of the Proposer in providing the services that the District should be aware of in evaluating its RFP response to this RFP.

Additionally, the RFP response shall include the Proposer's approach toward fulfilling the contract's scope of services related to 1) Capital Project Support & Hazardous Building Materials Related Support Services, 2) Industrial Hygiene Related Support Services, and 3) Environmental Related Support Services, including details on the following elements:

- Experience in industrial hygiene and/or environmental sampling.
- Ability to assist the District with accurately identifying potential hazardous materials within building components, soil and groundwater; identification and determination of chemical, biological, and physical hazards through industrial hygiene monitoring and sampling; developing safe work practice recommendations; profiling potential waste streams for maintenance and demolition projects; ensuring regulatory compliance for worker safety and environmental protection.
- A description of the project management system that the Proposer uses to manage client budgets and schedules, and how it would be implemented for the District's program.
- Established working relationships with industrial hygiene and environmental laboratories.
- Ability to appropriately respond and efficiently mobilize equipment for emergency and nonemergency situations.
- Experience in communicating with Local and State regulatory agencies.
- Knowledge of, and ability to comply with, all health and safety laws and hazardous materials and hazardous waste regulations applicable to the location and scope of each project.

5. **Project Management:** The Proposal shall include key project management features, including methods for schedule control, budget control, and information about the Proposer's quality control program.

6. **Scenario Resolutions:** The following includes five (5) scenarios that represent examples of activities that may be conducted under the contract. The Proposal must include a response to the scenarios relevant to the scope of services and qualifications that are being bid upon. Proposers shall submit a detailed response for each applicable scenario, including a cost estimate per unit costs, in addition to handling, laboratory, equipment, transportation, and report writing costs. The response also requires a justification for: assumptions made, identified equipment, and activities necessary to complete the assignment.

Scenarios are evaluated on the justifications for assumptions made; cost competitiveness based on the assumptions, innovative or streamlined approach, compliance with worker health and safety requirements, and comprehensiveness of response.

(a) Capital Project Support & Hazardous Building Materials Related Support Services

The District is undergoing the most capital-intensive period in its history with planned projects including substantial upgrades of treatment plants and rebuilding neighborhood reservoirs. These upcoming projects will require the District to determine the presence of potential hazardous materials to inform worker and community safety, profile waste streams, and determine abatement needs for contracted demolition work.

Design and implement a sampling program to characterize hazardous materials and hazardous waste generated during a planned demolition of Madrone Reservoir, which is a steel tank reservoir commissioned in 1957 and located near Balmoral Dr. and Skyline Blvd in Oakland. The steel tank consists of a concrete outer shell and measures approximately 30 feet in height, and 130 feet in diameter. Associated components include coated pipe runs and vaults, valves, electrical equipment, and mechanical equipment. The eventual construction of the new tank will also require excavating down to 10 feet below grade.

Describe your approach and develop a sampling plan to ensure regulatory requirements and best practices are followed to ensure hazardous materials are appropriately identified, what specific regulations may need to be followed for demolition to ensure worker safety and environmental protection, and how generated wastes should be managed.

Location details are included in the table below:

Latitude	Longitude
37°47'57.5"N	122°09'48.1"W



(b) Capital Project Support & Hazardous Building Materials Related Support Services

The District's Aqueduct System consists of three steel pipelines originating near the town of Campo Seco in Calaveras County and terminating in Walnut Creek, Contra Costa County. Most of the Aqueduct is subterranean with gully crossings (Crossings) in the low-lying topographical areas. Each Crossing is subject to unique site conditions. The original Crossings were installed circa 1927, with an exterior coating of a bitumastic coal tar enamel. Over the years, the Crossings have been recoated, in addition to patch repair work as necessary.

Crossing No. 379 requires recoating. The site is located within Camanche Reservoir where at high water elevations the pipeline is submerged in water. The existing coating will be sandblasted down to bare metal within a containment system equipped with HEPA filter. For clear access to the underneath section of the pipeline, built-up sediment has to be excavated to a minimum of two feet prior to the recoating process.

Crossing details are included in the table below:

Station No.	Latitude	Longitude	Exposed Pipe, feet
379	38°12'10.58"N	120°55'28.32"W	280

Develop a sampling plan to characterize Crossing No. 379's existing coating, including surrounding soil if considered applicable. Characterize the coating for worker safety and management of generated waste from the recoating process. Describe your approach, including best practices to minimize impacts to the environment during sample collection, including management of generated waste. Identify what specific regulations may apply for the sandblasting process to ensure worker safety. Include recommendations on how to manage the waste for proper disposal. Depict identified sample location(s) on an aerial map of site to ensure representative sample collection.



(c) Industrial Hygiene Related Support Services

The District has approximately 120 water and wastewater treatment operators who work at five (5) main water treatment plants, one (1) main wastewater plant, and four (4) reclamation and wet weather facilities. Operators work 8-hour shifts, providing 24-hour operation of plants. During our annual audiometric testing we observed a high incidence of standard threshold shifts (STS) among our operators.

Describe your approach and develop a noise exposure study plan to ensure the District will obtain representative exposure data on this population of workers and what methods can be employed to reduce exposures.

(d) Industrial Hygiene Related Support Services

The District was made aware that several maintenance workers are worried about exposures to welding fumes and would like to know whether they need to wear respiratory protection and/or utilize a ventilation system. The District has approximately nine (9) maintenance shops with dedicated indoor welding areas, with only four (4) currently having engineering local exhaust ventilation (LEV) systems. The District also has a dedicated welding crew who periodically performs welding tasks within excavations and inside large diameter pipelines. They do not currently utilize portable LEV systems when performing welding tasks. All locations and crews have access and utilize different welding equipment depending on the project and material, including metal inert gas (MIG), shielded metal arc (stick/SMAW), and tungsten inert gas (TIG). Materials welded generally include steel, iron, aluminum, copper.

Describe your approach and develop a sampling plan to obtain exposure assessments for welders at the shops and for those who do work in excavations and inside pipelines. Include your methodology for assessing exposures based on the welding technique utilized, materials used, and how you would evaluate the effectiveness of existing LEV systems.

(e) Environmental Related Support Services

The District routinely performs pipeline replacement projects throughout our service area. The [linked plan view sheet](#) is for approximately 1,130 feet of watermain (and service laterals) pipeline replacement work in Oakland/Emeryville. The neighboring residents, businesses, and schools have expressed concern with any excavation work being planned for this area because of the environmental contamination history.

Briefly describe a time and materials work plan to perform the drilling work and to provide qualified environmental professional oversight (if necessary) during this excavation work. Your approach should include performing soil boring and drilling investigations to pre-characterize trench soils to acquire landfill waste profiles and to

address potential worker health and safety concerns in advance of the excavation work. Additionally, please include:

- What permits and supporting contractors will be required?
- What authorizations (if any) should the District have in place?
- What environmental health and safety concerns should be addressed (including Site Specific Health & Safety Plans, and whether HAZWOPER trained employees will be required) when the District commences excavation to install new pipelines?

7. **References:**

- (a) Proposers must use the templates in the “References” section of this Exhibit A – RFP Response Packet to provide references.
- (b) References should have similar scope, volume, and requirements to those outlined in these specifications, terms, and conditions.
 - Proposers must verify the contact information for all references provided is current and valid.
 - Proposers are strongly encouraged to notify all references that the District may be contacting them to obtain a reference.
 - References **MUST** demonstrate the successful completion of (consulting projects, environmental reports, studies, etc.) of the same quality and manner as that which is described in this RFP.
- (c) The District may contact some or all of the references provided in order to determine Proposer’s performance record on work similar to that described in this RFP. The District reserves the right to contact references other than those provided in the RFP response and to use the information gained from them in the evaluation process.

8. **Exceptions, Clarifications, Amendments:**

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

9. **Contract Equity Program:**

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



REFERENCES
RFP for Industrial Hygiene & Environmental Sampling Services

Proposer Name: _____

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

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

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

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

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



EXCEPTIONS, CLARIFICATIONS, AMENDMENTS
RFP for Industrial Hygiene & Environmental Sampling 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>

EXAMPLE

*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 downloaded from the District website at the following link: <https://www.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.

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 ten (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.

I. 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.

INSURANCE VERIFICATION DOCUMENTS

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: _____

II. 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: _____

III. 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: _____

IV. Professional Liability (also known as Errors and Omissions) Insurance Coverage

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

- C. Minimum Requirements: Professional Liability Insurance with minimum limits as follows:

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

- D. If Coverage is written on a claims-made form, the following shall apply:
 - 1. The retroactive date must be shown and must be before the date of the Agreement or the beginning of the Services.
 - 2. Insurance must be maintained, and evidence of insurance must be provided for a minimum of three (3) years after completion of the Services.
 - 3. If claims-made coverage is canceled or non-renewed, and not replaced with another claims-made policies form with a retroactive date prior to the effective date of the Agreement, CONTRACTOR must purchase an extended period of coverage for a minimum of three (3) years after completion of the Services.
- E. Insurance shall include prior acts coverage sufficient to cover the services under this Agreement.
- F. Coverage shall be included for all premises and operations in any way related to this Agreement.

Verification of Professional Liability (Errors and Omissions) Insurance Coverage

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

Self-Insured: Amount: \$ _____

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

Policy Number: _____

Policy Period: from: _____ to: _____

Insurance Carrier Name: _____

Insurance Broker or Agent (Print Name): _____

Insurance Broker or Agent's Signature: _____

VI. Excess and/or Umbrella Liability Insurance Coverage

- A. CONTRACTOR's insurance shall be primary, and any insurance or self-insurance procured or maintained by the DISTRICT shall not be required to contribute to it.
- B. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policies or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the CONTRACTOR.
- C. Minimum Requirements: It is expressly understood by the parties that CONTRACTOR's Excess and/or Umbrella Liability policies shall, at minimum, comply with all insurance requirements set forth within this Agreement.
 - 1. Coverage for Products, Completed Operations, and Ongoing Operations must be included in the insurance policies and shall not contain any "prior work" coverage limitation or exclusion applicable to any Services performed under this Agreement and, if it is a claims-made policy, it must be maintained for a minimum of three (3) years following final completion of the Services.
 - 2. Coverage shall be included for all premises and operations in any way related to this Agreement.
 - 3. There will be no exclusion for explosions, collapse, or underground damage (XCU).
 - 4. Insurance policies and Additional Insured Endorsements shall not exclude coverage for liability and damages from services performed by Subcontractor on CONTRACTOR's behalf.
 - 5. Contractual liability coverage shall be included and shall not limit, by any modification or endorsement, coverage for liabilities assumed by CONTRACTOR under this Agreement as an "insured contract."
 - 6. "Independent CONTRACTOR's Liability" shall not limit coverage for liability and/or damage arising out of, pertaining to, or in any way related to Services provided under this Agreement.

7. To the fullest extent permitted by law, the DISTRICT, its directors, officers, officials, agents, volunteers, and employees must be covered as Additional Insureds on a primary and noncontributory basis on all excess and umbrella policies. The Additional Insureds must be covered for liability arising in whole or in part from any premises, Products, Ongoing Operations, and Completed Operations by or on behalf of CONTRACTOR, in any way related to Services performed under this Agreement.
 8. A severability of interest provision must apply for all the Additional Insureds, ensuring that the CONTRACTOR's insurance shall apply separately to each insured against whom a claim is made, or suit is brought, except with respect to the policy's limits.
 9. CONTRACTOR and its excess and/or umbrella Liability insurance coverage must waive any rights of subrogation against the DISTRICT, its directors, officers, officials, employees, agents, and volunteers, and CONTRACTOR shall defend and pay any damages as a result of failure to provide the waiver of subrogation from the insurance carrier(s).
- D. CONTRACTOR shall defend and pay any damages as a result of failure to provide the waiver of subrogation from the insurance carrier(s).

Verification of Excess and/or Umbrella Liability Insurance Coverage

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

Self-Insured: Amount: \$ _____

Policy Number: _____

Policy Period: from: _____ **to:** _____

Insurance Carrier Name: _____

Insurance Broker or Agent (Print Name): _____

Insurance Broker or Agent's Signature: _____



EXHIBIT C

CONSULTING AND PROFESSIONAL SERVICES AGREEMENT

CONSULTING AND PROFESSIONAL SERVICES AGREEMENT FOR EAST BAY MUNICIPAL UTILITY DISTRICT *Industrial Hygiene & Environmental Sampling Services*

THIS Agreement is made and entered into this _____ day of *(month)*, 202_, 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.

ARTICLE 4 - TERMINATION

- 4.1 This Agreement may be terminated by DISTRICT immediately for cause or upon ten (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.

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.

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.

(Paragraph 6.2 to be used when there is subcontracting/subconsulting opportunities. See CEP office for details.)

6.2 Designated CEP compliance for the duration of this Agreement is listed in Exhibit C, which is attached hereto and incorporated herein. CONSULTANT shall maintain records of the total amount actually paid to each subconsultant. Any change of CONSULTANT'S listed subconsultants shall be subject to approval by the DISTRICT'S Project Manager.

ARTICLE 7 - INDEMNIFICATION AND INSURANCE

7.1 Indemnification

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

7.2 Insurance Requirements

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

ARTICLE 8 - NOTICES

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

(consulting firm's name)

(address)

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

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

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

Manager of Workplace Health and Safety
P.O. Box 24055
Oakland, CA 94623-1055

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

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

ARTICLE 9 - MISCELLANEOUS

- 9.1 This Agreement represents the entire understanding of DISTRICT and CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may only be modified by amendment in writing signed by each party.
- 9.2 This Agreement is to be binding on the successors and assigns of the parties hereto. The services called for herein are deemed unique and CONSULTANT shall not assign, transfer or otherwise substitute its interest in this Agreement or any of its obligations hereunder without the prior written consent of DISTRICT.
- 9.3 Should any part of this Agreement be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement can be interpreted to give effect to the intentions of the parties.
- 9.4 Multiple copies of this Agreement may be executed by the parties and the parties agree that the Agreement on file at the DISTRICT is the version of the Agreement that shall take precedence should any differences exist among counterparts of the Agreement.
- 9.5 This Agreement and all matters relating to it shall be governed by the laws of the State of California.

- 9.6 The District's waiver of the performance of any covenant, condition, obligation, representation, warranty or promise in this agreement shall not invalidate this Agreement or be deemed a waiver of any other covenant, condition, obligation, representation, warranty or promise. The District's waiver of the time for performing any act or condition hereunder does not constitute a waiver of the act or condition itself.
- 9.7 There shall be no discrimination in the performance of this contract, against any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, gender including gender identity or expression, age, marital or domestic partnership status, mental disability, physical disability (including HIV and AIDS), medical condition (including genetic characteristics or cancer), veteran or military status, family or medical leave status, genetic information, or sexual orientation. CONSULTANT shall not establish or permit any such practice(s) of discrimination with reference to the contract or any part. CONSULTANTS determined to be in violation of this section shall be deemed to be in material breach of this Agreement.

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

CONSULTANT shall include the nondiscrimination provisions above in all subcontracts.

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

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

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

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

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

ARTICLE 10 - TERM

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

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

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

EAST BAY MUNICIPAL UTILITY DISTRICT

By: _____ Date _____
(Name)
(Title)

Approved As To Form

By: _____ Date _____
for the Office of the General Counsel

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

By: _____ Date _____
(Name)
(Title)

EXHIBIT A
East Bay Municipal Utility District
Industrial Hygiene & Environmental Sampling Services

SCOPE OF SERVICES

I. CONSULTANT SERVICES

CONSULTANT shall provide the following:

Contracted Services

(State each task with associated task number)

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
Industrial Hygiene & Environmental Sampling Services

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.

2.5 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.

2.6 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.

2.7 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.

BUDGET STATUS REPORT

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

EXHIBIT C
East Bay Municipal Utility District
Industrial Hygiene & Environmental Sampling Services

CEP COMPLIANCE

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

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

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

EXHIBIT D
East Bay Municipal Utility District
Industrial Hygiene & Environmental Sampling Services

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, CONSULTANT shall, at its sole cost and expense, maintain insurance in conformance with the requirements set forth below.
- B. CONSULTANT shall provide Verification of Insurance as required by this Agreement by providing the completed Verification of Insurance as requested below signing and submitting this Exhibit D to the DISTRICT. The Exhibit D may be signed by an officer of the CONSULTANT (Agent) or by the Insurance Broker for the CONSULTANT. CONSULTANT shall update Exhibit D throughout the specified term of the insurance required by this Agreement by resubmitting the completed Exhibit D prior to the expiration date of any of the required insurance. The updated Exhibit D shall become a part of the Agreement but shall not require a change order to the Agreement. The Notice to Proceed shall not be issued, and CONSULTANT shall not commence Services until such insurance has been accepted by the DISTRICT.
- C. CONSULTANT shall carry and maintain the minimum insurance requirements as defined in this Agreement. CONSULTANT shall require any subcontractor to carry and maintain the minimum insurance required in this Agreement to the extent they apply to the scope of the services to be performed by subcontractor.
- D. Acceptance of verification of Insurance by the DISTRICT shall not relieve CONSULTANT of any of the insurance requirements, nor decrease liability of CONSULTANT.
- E. The insurance required hereunder may be obtained by a combination of primary, excess and/or umbrella insurance, and all coverage shall be at least as broad as the requirements listed in this Agreement.

- F. Any deductibles, self-insurance, or self-insured retentions (SIRs) applicable to the required insurance coverage must be declared to and accepted by the DISTRICT.
- G. At the option and request of the DISTRICT, CONSULTANT shall provide documentation of its financial ability to pay the deductible, self-insurance, or SIR.
- H. Any policies with a SIR shall provide that any SIR may be satisfied, in whole or in part, by the DISTRICT or the additional insured at its sole and absolute discretion.
 - I. Unless otherwise accepted by the DISTRICT, all required insurance must be placed with insurers with a current A.M. Best's rating of no less than A- V.
- J. CONSULTANT shall defend the DISTRICT and pay any damages as a result of failure to provide the waiver of subrogation from the insurance carrier.
- K. For any coverage that is provided on a claims-made coverage form (which type of form is permitted only where specified) the retroactive date must be shown and must be before the date of this Agreement, and before the beginning of any Services related to this Agreement.
- L. Insurance must be maintained and updated Verification of Insurance be provided to the DISTRICT before the expiration of insurance by having CONSULTANT's insurance broker or agent update, sign and return Exhibit D to the DISTRICT's contract manager. For all claims-made policies the updated Verification of Insurance must be provided to the DISTRICT for at least three (3) years after expiration of this Agreement.
- M. If claims-made coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of this Agreement or the start of any Services related to this Agreement, CONSULTANT must purchase an extended reporting period for a minimum of three (3) years after expiration of the Agreement.
- N. If requested by the DISTRICT, a copy of the policies' claims reporting requirement must be submitted to the DISTRICT for review.
- O. Where additional insured coverage is required, the additional insured coverage shall be "primary and non-contributory," and will not seek contribution from the DISTRICT's insurance or self-insurance.

- P. CONSULTANT agrees to provide immediate Notice to the DISTRICT of any loss or claim against CONSULTANT arising out of, pertaining to, or in any way relating to this Agreement, or Services performed under this Agreement. The DISTRICT assumes no obligation or liability by such Notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve the DISTRICT.
- Q. CONSULTANT agrees, upon request by the DISTRICT, to provide complete, certified copies of any policies and endorsements within ten (10) days of such request (copies of policies may be redacted to eliminate premium details.)
- R. It is CONSULTANT's responsibility to ensure its compliance with the insurance requirements. Any actual or alleged failure on the part of the DISTRICT to obtain proof of insurance required under this Agreement shall not in any way be construed to be a waiver of any right or remedy of the DISTRICT, in this or any regard.
- S. **Notice of Cancellation/Non-Renewal/Material Reduction.** The insurance requirements hereunder are mandatory and the DISTRICT may, at its sole and absolute discretion, terminate the services provided by CONSULTANT, should CONSULTANT breach its obligations to maintain the required coverage and limits set forth in this Agreement. No coverage required hereunder shall be cancelled, non-renewed or materially reduced in coverage or limits without the DISTRICT being provided at least thirty (30) days prior written notice, other than cancellation for the non-payment of premiums, in which event the DISTRICT shall be provided ten (10) days prior written notice. Replacement of coverage with another policy or insurer, without any lapse in coverage or any reduction of the stated requirements does not require notice beyond submission to the DISTRICT of an updated Verification of Insurance which shall be met by having the CONSULTANT's insurance broker or agent update, sign and return this Exhibit D.

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

- A. Workers' Compensation insurance including Employer's Liability insurance with minimum limits as follows:

Coverage A. Statutory Benefits Limits

Coverage B. Employer's Liability of not less than:

Bodily Injury by accident: \$1,000,000 each accident
Bodily Injury by disease: \$1,000,000 each employee
Bodily Injury by disease: \$1,000,000 policy limit

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

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

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

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

Self-Insured Retention: Amount: \$ _____

Policy Limit: \$ _____

Policy Number: _____

Policy Period: from: _____ to: _____

Insurance Carrier Name: _____

Insurance Broker or Agent (Print Name): _____

Insurance Broker or Agent's Signature: _____

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

- A. CONSULTANT’s insurance shall be primary and any insurance or self-insurance procured or maintained by the DISTRICT shall not be required to contribute to it.
- B. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policies or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the CONSULTANT.
- C. Minimum Requirements. CGL insurance with minimum per occurrence and aggregate limits as follows:

Bodily Injury and Property Damage aggregate	\$2,000,000 per occurrence &
Personal Injury/Advertising Injury aggregate	\$2,000,000 per occurrence &
Products/Completed Operations aggregate	\$2,000,000 per occurrence &
- D. Coverage must be on an occurrence basis.
- E. Coverage for Products, and Completed Operations, and Ongoing Operations must be included in the insurance policies and shall not contain any “prior work” coverage limitation or exclusion applicable to any Services performed by CONSULTANT and/or subcontractor under this Agreement.
- F. Insurance policies and Additional Insured Endorsement(s) Coverage shall be included for all premises and operations in any way related to this Agreement.
- G. There will be no exclusion for explosions, collapse, or underground liability (XCU).
- H. Insurance policies and Additional Insured Endorsement(s) shall not exclude liability and damages to work arising out of, pertaining to, or in any way relating to services performed by Subcontractor on CONSULTANT’s behalf.

- I. Contractual liability coverage shall be included and shall not limit, by any modification or endorsement, coverage for liabilities assumed by CONSULTANT under this Agreement as an “insured contract.”
- J. Waiver of Subrogation. The policy shall be endorsed to include a Waiver of Subrogation ensuring that the CONSULTANT and its insurer(s) waive any rights of recovery by subrogation, or otherwise, against the DISTRICT, its directors, board, and committee members, officers, officials, agents, volunteers, and employees. CONSULTANT shall defend and pay any and all damages, fees, and costs, of any kind, arising out of, pertaining to, or in any way resulting from CONSULTANT’s failure to provide the waiver of subrogation from its insurance carrier(s).
- K. “Independent CONSULTANT’s Liability” shall not limit coverage for liability and/or damages arising out of, pertaining to, or in any way resulting from Services provided under this Agreement.

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

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

Verification of Commercial General Liability (CGL) Insurance Coverage

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

Self-Insured: Amount: \$ _____

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

Policy Number: _____

Policy Period: from: _____ **to:** _____

Insurance Carrier Name: _____

Insurance Broker or Agent (Print Name): _____

Insurance Broker or Agent's Signature: _____

IV. Business Auto Liability Insurance Coverage

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

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

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

Each Occurrence Limit (per accident) and in the Aggregate: \$2,000,000

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

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

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

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

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

shall also include leakage of fuel or other “pollutants” needed for the normal functioning of covered autos.

- F. To the fullest extent permitted by law, the DISTRICT, its directors, board, and committee members, officers, officials, employees, agents, and volunteers must be covered as Additional Insureds on a primary and noncontributory basis on all underlying and excess and umbrella policies. The Additional Insureds must be covered for liability arising in whole, or in part, from any premises, Products, Ongoing Operations, and Completed Operations by or on behalf of CONSULTANT, in any way related to Services performed under this Agreement.
- G. A severability of interest provision must apply for all the Additional Insureds, ensuring that CONSULTANT’s insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the insurer’s limits of liability.

Verification of Business Auto Liability Insurance Coverage

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

Self-Insured: Amount: \$ _____

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

Policy Number: _____

Policy Period: from: _____ to: _____ 5

Insurance Carrier Name: _____

Insurance Broker or Agent (Print Name): _____

Insurance Broker or Agent's Signature: _____

V. Professional Liability (also known as Errors and Omissions) Insurance Coverage

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

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

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

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

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

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

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

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

Verification of Professional Liability (Errors and Omissions) Insurance Coverage

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

Self-Insured: Amount: \$ _____

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

Policy Number: _____

Policy Period: from: _____ to: _____

Insurance Carrier Name: _____

Insurance Broker or Agent (Print Name): _____

Insurance Broker or Agent's Signature: _____

VI. Excess and/or Umbrella Liability Insurance Coverage

- A. CONSULTANT's insurance shall be primary and any insurance or self-insurance procured or maintained by the DISTRICT shall not be required to contribute to it.
- B. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policies or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the CONSULTANT.
- C. Minimum Requirements: It is expressly understood by the parties that CONSULTANT's Excess and/or Umbrella Liability policies shall, at minimum, comply with all insurance requirements set forth within this Agreement.
 - 1. Coverage for Products, Completed Operations, and Ongoing Operations must be included in the insurance policies and shall not contain any "prior work" coverage limitation or exclusion applicable to any Services performed under this Agreement and, if it is a claims-made policy, it must be maintained for a minimum of three (3) years following final completion of the Services.
 - 2. Coverage shall be included for all premises and operations in any way related to this Agreement.
 - 3. There will be no exclusion for explosions, collapse, or underground damage (XCU).
 - 4. Insurance policies and Additional Insured Endorsements shall not exclude coverage for liability and damages from services performed by Subcontractor on CONSULTANT's behalf.
 - 5. Contractual liability coverage shall be included and shall not limit, by any modification or endorsement, coverage for liabilities assumed by CONSULTANT under this Agreement as an "insured contract."

6. "Independent CONSULTANT's Liability" shall not limit coverage for liability and/or damage arising out of, pertaining to, or in any way related to Services provided under this Agreement.
 7. To the fullest extent permitted by law, the DISTRICT, its directors, officers, officials, agents, volunteers, and employees must be covered as Additional Insureds on a primary and noncontributory basis on all excess and umbrella policies. The Additional Insureds must be covered for liability arising in whole or in part from any premises, Products, Ongoing Operations, and Completed Operations by or on behalf of CONSULTANT, in any way related to Services performed under this Agreement.
 8. A severability of interest provision must apply for all the Additional Insureds, ensuring that the CONSULTANT's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the policy's limits.
 9. CONSULTANT and its excess and/or umbrella Liability insurance coverage must waive any rights of subrogation against the DISTRICT, its directors, officers, officials, employees, agents, and volunteers, and CONSULTANT shall defend and pay any damages as a result of failure to provide the waiver of subrogation from the insurance carrier(s).
- D. CONSULTANT shall defend and pay any damages as a result of failure to provide the waiver of subrogation from the insurance carrier(s).

Verification of Excess and/or Umbrella Liability Insurance Coverage

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

Self-Insured: Amount: \$ _____

Policy Number: _____

Policy Period: from: _____ to: _____

Insurance Carrier Name: _____

Insurance Broker or Agent (Print Name): _____

Insurance Broker or Agent's Signature: _____