

REQUEST FOR PROPOSAL (RFP)
for Lower Mokelumne River
Relicensing Project Strategic
Consulting and Facilitation Services
WRD-2024-1

ADDENDA

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

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RESPONSE DUE

January 29, 2024
4:00 p.m. PST

SUBMIT ELECTRONICALLY TO*

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**Hardcopy proposals will not be accepted*

EAST BAY MUNICIPAL UTILITY DISTRICT

RFP for Lower Mokelumne River Relicensing Project Strategic Consulting and Facilitation Services
WRD-2024-1

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I. STATEMENT OF WORK

A. SCOPE

East Bay Municipal Utility District (District) intends to award an eight-year contract to the Proposer(s) who best meets the District’s requirements.

The District is preparing to initiate the Integrated Licensing Process (ILP) to seek renewal of its existing 50-year FERC Project license, which expires March 31, 2031. Because the ILP requires adherence to a defined schedule with review and comment periods and strict filing deadlines, the District seeks the services of a consultant who is versed in the FERC licensing process to provide strategic guidance in successfully managing the relicensing process to prepare documents and filings as required. The District also seeks assistance with public outreach and facilitating focus group meetings with interested parties to gather input to incorporate into the regulatory submittals; this includes development of materials to aid in those services.

Consequently, it is the intent of these specifications, terms, and conditions to describe strategic consulting and facilitation services to support the Federal Energy Regulatory Commission (FERC) relicensing effort for the Lower Mokelumne River Project (Project), License No. 2916.

East Bay Municipal Utility District (District) intends to award an eight-year contract to the Proposer(s) who best meets the District’s requirements.

Proposers should outline as part of the proposal, their recommendations and plan to meet the scope of the services requested.

B. PROPOSER QUALIFICATIONS

1. Proposer Minimum Qualifications

- a. Proposer, Proposer’s principal, Proposer’s staff and any subconsultants that are part of the team shall have been regularly engaged in the business of providing strategy and facilitation support on projects involving original or new hydropower licenses from FERC for at least eight (8) years, which is the time typically needed to complete relicensing.
- b. Proposer, Proposer’s principal, or Proposer’s staff shall have been regularly engaged in the business of preparing and navigating through the California State Water Resources Control Board application process for a Clean Water Act section 401 water quality certification for at least eight (8) years.

- c. Proposer should demonstrate experience in tribal consultations and collaborating with tribal entities and with California's State Historic Preservation Officer. Experience in the Mokelumne River Basin is particularly desirable.
- d. Proposer should demonstrate thorough experience with the regulatory processes and federal and state laws that may impact the Project relicensing, including, but not limited to: (1) NEPA/CEQA; (2) Endangered Species Act; (3) Fish and Wildlife Coordination Act; and (4) Wild and Scenic Rivers Act.
- e. The Proposer must identify a facilitator with demonstrated experience conducting meetings for a wide range of audience members from the general public, technical focus groups, and regulators for the FERC relicensing process.
- f. Proposer shall possess all permits, licenses, and professional credentials necessary to perform services as specified under this RFP.
- g. Proposers with regional presence and regional experience in California and with the Project are strongly preferred, although it is not mandatory.

c. SPECIFIC REQUIREMENTS

On March 10, 1981, FERC issued a 50-year license to the District effective April 1, 1981, for the Lower Mokelumne River Project 2916 (Project) located within San Joaquin, Calaveras, and Amador Counties in California. The Project consists of the Pardee Dam and Powerhouse (construction completed in 1929) and Camanche Dam and Powerhouse (construction completed in 1964) and their associated reservoirs. In addition to permitting hydropower generation, the license also prescribes terms for Project operations related to dam safety, public safety, recreation, and environmental protection.

In the early 1990s, FERC began a proceeding to determine whether modifications to the facilities or operations of the Project were needed for the conservation of fish and wildlife resources. The outcome was a Joint Settlement Agreement (JSA) between EBMUD, the California Department of Fish and Wildlife, and the U.S. Fish and Wildlife Service that was executed in 1998. The JSA, which was subsequently included as an amendment to license No. 2916, committed the District to implement new instream flows and to undertake certain non-flow measures to protect the fishery resources of the lower Mokelumne River.

The Project license will expire on March 31, 2031, and the FERC regulations require that a licensee initiate the process for seeking a renewal of a license five to five and one-half

years before the existing license expires. As part of the relicense process, FERC will reassess dam operations, giving equal consideration to power and non-power uses. The District will also need to comply with numerous environmental and regulatory requirements (e.g., National Environmental Policy Act (NEPA), California Environmental Quality Act (CEQA), and Clean Water Act 401 Water Quality Certification).

The relicensing process is formally initiated with FERC by filing a Notice of Intent (NOI) and a Pre-Application Document (PAD). The NOI formally informs FERC and all interested parties that the District is initiating the process to renew the FERC license. The PAD is the foundation for issue identification, study plan development, and FERC's environmental analysis. The PAD generally includes the engineering, economic, and environmental information relevant to the project that is reasonably available when the NOI is filed. The District must expend significant time for document preparation and estimates the licensing process could take at least 6 to 7 years. The District must initiate the formal relicensing process by filing a Notice of Intent (NOI) and Pre-Application Document (PAD) no later than March 31, 2026, and must file its License Application by March 31, 2029.

As an extension of District staff, the consultant will assist the District with this relicensing process to accomplish all phases of the relicensing effort extending through the target license issuance date of April 2031. The services required will address the following objectives: (a) assist in shaping and maintaining a strategic approach to successfully manage the relicensing process; (b) assist in preparation of documents and filings required by the Federal Energy Regulatory Commission (FERC) licensing process; (c) provide multidisciplinary consulting services for assessing the District's planning study needs, reviewing applicable resource and planning studies performed by the District, and in meetings with license participants present findings and gather feedback on those studies during the relicensing process and (d) prepare for, facilitate, and document the engagement with external interested parties and other related relicensing meetings, including any settlement negotiations.

Specific considerations associated with relicensing the Lower Mokelumne River Project include Tribal and cultural interests, competing recreational interests, balancing flow releases and biological ecosystem interests, optimizing management of reservoir temperature, applying flexible reservoir operations management, managing for public water supply while also generating hydropower and satisfying other Project purposes.

Task 1. Project Management

This task includes all aspects of information and document management by the Consultant. Strong project management and communication will be needed to maintain close coordination between the District and Consultant throughout the Project relicensing process to ensure successful execution. This task also includes production of

monthly progress reports to accompany invoices describing the work performed and associated costs. Information and document management ensures that key documents are readily available to external interested parties, the general public, and the relicensing teams of the Consultant and the District.

The Consultant team should include key members to support the District's relicensing effort that includes, but is not limited to:

- Consultant's *Project Manager (PM)* is the primary point of contact for the District throughout the relicensing process. The PM will proactively coordinate with the District to develop a master Project schedule for high-level coordination and detailed Project schedules for each major phase and study. This comprehensive schedule will provide a detailed (phase-by-phase) roadmap for the initial informal steps and the defined formal ILP steps to follow. Upon finalization, this schedule will be submitted to the District for review and approval before initiating work. The detailed Project schedule will be updated monthly throughout the relicensing process. In addition, the PM coordinates internal workflow processes and conducts regularly scheduled meetings within the consultant team to meet Project schedules and deadlines and conducts a final QA/QC review of documents before their submission to the District.
- *Administration and Technical Support Lead* develops a style guide in partnership with the District Project team to be used for all documents, including the Notice of Intent (NOI), Pre-Application Document (PAD), study plans, study reports, Draft License Application (DLA), and Final License Application (FLA). Standard templates for comment-response tables, presentations, and meeting minutes shall also be developed, as well as a standard Project location map that can be customized, as needed. The *Administration and Technical Support Lead* shall coordinate all document development and Quality Assurance/Quality Control (QA/QC) reviews.
- *Technical Editor* reviews all documents to ensure adherence to the style guide and adherence to industry standard practices and nomenclature.
- *Federal Energy Regulatory Commission (FERC) Licensing Strategy Specialist or Strategic Advisor* ensures consistency with the overall relicensing strategy.

Assumptions:

- a. The District will be responsible for developing an external relicensing website and protocols including maintenance and updating of the website. Consultant shall provide input during development on necessary functionality to support the relicensing process.

- b. The District will provide and support a secure SharePoint site for the District and Consultant use. Consultant shall provide and manage additional secure SharePoint site (if necessary) for Consultant document drafting.
- c. The District will provide technical support for external website, SharePoint, and other systems maintained by the District.
- d. RFP requirements in Section I.D will apply to deliverables and review schedule.
- e. All meetings, in-person or videoconference calls, will include budget for Consultant's preparation time, agenda setting, follow-up, and a meeting summary.

Deliverables:

- Monthly progress reports accompanying invoices submitted by email
- Meet in a standing videoconference for up to one hour with the District project team at an agreed upon frequency as determined by the current project tasks to provide a status update, coordinate on any topics that require input/approval from the District, and review upcoming next steps. Consultant distributes an agenda in advance of each meeting.
- Develop, submit, and monitor overall Project schedule
- Draft and submit style guide, templates, and maps
- Provide and manage additional secure SharePoint site (if necessary) for Consultant document drafting

Task 2. Strategy for Successful Relicensing

The Consultant will proactively identify potential technical or political issues that could arise throughout the relicensing process. The Consultant team will have the experience and the strategic expertise necessary to develop, execute, and adapt an effective relicensing strategy to navigate initially identified issues and other issues that arise and avoid any major pitfalls. The PM and FERC Licensing Strategy Specialist will hold a kick-off meeting with the District early in 2024 to 1) confirm the Project description and details (i.e. Lower Mokelumne River Project 101 presentation by the District); 2) identify goals that the District has for the relicensing; 3) discuss what a successful outcome(s) of the relicensing would be from the District's perspective; 4) establish areas of concern likely to be deemed priorities by external interested parties; and 5) educate the District on the FERC relicensing process (i.e. FERC licensing 101). Clear, consistent, and regular internal communication is critical to Project success.

Assumptions:

- a. The kick-off meeting will occur by videoconference or in person if optionally scheduled concurrently with the site visit associated with Task 5, which will be held at the District's Pardee Center facilities in Valley Springs, CA within proximity to the Camanche and Pardee hydroelectric facilities of the Lower Mokelumne River Project.
- b. Meetings will include budget for Consultant's preparation time, agenda setting, follow-up, and a meeting summary.
- c. RFP requirements in Section I.D will apply to deliverables and review schedule

Deliverables:

- Lead kick off meeting with the District in early 2024
- Prepare a meeting summary discussing goals, desired outcomes, concerns
- PowerPoint presentation slides and any additional handouts
- A report or memorandum documenting the proposed strategy for successful relicense process.

Task 3. Communications and External Interested Parties Engagement Strategic Plan

Effective external communication and positive engagement with interested parties are critical to Project success. The Consultant will proactively coordinate with the District to:

- Conduct and participate in two collaborative governance training sessions (one focused on internal collaboration and the other focused on external collaboration),
- Participate in a partnering exercise, and
- Develop a Communications and External Interested Parties Engagement Strategic Plan early in 2024 before any external outreach or information gathering is conducted.

This document will outline appropriate protocols for internal communication and for engaging with external interested parties, the public, the media, and elected officials; address potential communication strategies/ approaches to address individual technical issues/ risks to support the District's relicensing goals and objectives, as well as a proposed schedule of engagements that precede the first study year activities. In addition to conducting i) external focus group and ii) Resource Working Group (RWG) meetings for Technical Studies/Analysis Topics and RWG topic areas identified in Task 6

(Continued Strategic Planning and Early Engagement with External Interested Parties), the Consultant will conduct the following public relations (PR) activities:

- Advise on a proactive District-led PR campaign, which could potentially include press releases, social media posts, and/or postings on the Project website with a Project updates page.
- Advise the District on establishing and maintaining consistent “vertical” communication with elected officials throughout the relicensing process. This will include both communications with the District’s Board members and outside officials and will mitigate the risk of elected Board members or other officials hearing and acting on any misinformation that external interested parties may circulate without a complete understanding of the Project complexities and technical issues.
- Advise and assist with development of educational material, fact sheets, and other appropriate material for public distribution.

Working with the District staff, the Consultant shall also develop a comprehensive Project contact list with email, phone number, and physical address for all known external interested parties’ representatives, including federal, state, and local agencies, Tribes, and non-governmental organizations (NGOs). This contact list shall be updated as needed throughout the relicensing.

Assumptions:

- a. Meetings will include budget for Consultant’s preparation time, agenda setting, follow-up, and a meeting summary.
- b. RFP requirements in Section I.D will apply to deliverables and review schedule

Deliverables:

- Conduct and participate in two collaborative governance training sessions (one focused on internal collaboration and the other focused on external collaboration)
- Support District staff with providing up to 5 briefings and/or workshops with the District’s Board of Directors.
- Develop training materials for the two collaborative governance sessions; develop communication documents (fact sheets, flyers, etc.) as requested.
- Communications and External Interested Parties Engagement Strategic Plan
- Contact list for the Project

Task 4. Information Compilation and Analytics

The Consultant leads the information discovery and organization process. This will include collecting any relevant information/data that the District already has, including but not limited to Project facilities and operations data, any planned and/or potential modifications to Project infrastructure or operations, aerial photography, LiDAR, reservoir bathymetry, juvenile fall salmon data, the Mokelumne Watershed Master Plan, cultural resources management plans, recreation plans, Joint Settlement Agreement (1998), and reservoir temperature management studies. The Consultant team will also conduct an internet search for any additional publicly available information and reach out to key external interested parties for any information they might have and be willing to share. This external outreach will be consistent with the protocols outlined in the Communications and External Interested Parties Engagement Strategic Plan.

Once the Consultant team has reviewed the relevant existing information, the Consultant shall then 1) identify any known or likely Project issues or concerns; 2) identify any information gaps; 3) develop and collect questionnaires (first questionnaire)/surveys to all external interested parties parsed out by subject matters of interest for the District's review and approval; 4) share findings and help identify specific studies/analysis that could be conducted to address issues/concerns raised as applicable, or identify additional educational material/workshops to be held to address issues/concerns raised as applicable; and 5) determine if it would be beneficial to conduct or initiate any additional discrete study efforts early in order to inform the development of the PAD and/or study planning.

Assumptions:

- a. The District will provide baseline GIS data (i.e., Project Boundary, facilities locations, and land ownership) within one month of contract execution. Additional GIS databases to be provided as soon as possible on agreed to schedule between Consultant and the District.
- b. RFP requirements in Section I.D will apply to deliverables and review schedule

Deliverables:

- Identify, collect, organize, and review existing information
- Identify likely Project issues/concerns and range of potential follow up actions
- Identify any discrete study efforts that would benefit PAD development or study planning
- Identify information needs and gaps

- A report or memorandum documenting the data collected, Task 5 site visit, key project issues/concerns, data gaps, and proposed study efforts necessary to fill gaps and/or prepare the PAD.
- Electronic version of first questionnaire/survey for District's distribution electronically to external interested parties

Task 5. Site Visit (2024)

Key staff from the District will coordinate and lead a site visit for key members of the consultant team and conclude with a follow-up debrief meeting at the District's Pardee Center facilities. This will ensure that the consultant team understands the existing Project facilities, operations, and surrounding environment, which will be essential when developing the PAD. Other participants in the site visit may include key staff from the legal team at the District's discretion. This site visit could coincide with the kickoff meeting previously described in Task 1 for cost efficiency.

Assumptions:

- a. RFP requirements in Section I.D will apply to deliverables and review schedule
- b. Meetings will include budget for Consultant's preparation time, agenda setting, follow-up, and a meeting summary.

Deliverables:

- Conduct site visit with Project team of the Lower Mokelumne River Project and conduct follow up debrief meeting at the District's Pardee Center facilities in Valley Springs, CA.
- Document any findings from the site visit in the Task 4 report/memorandum.

Task 6. Continued Strategic Planning and Early Engagement with External Interested Parties (2024)

Internal Workshop #1: The Consultant will facilitate an internal relicensing workshop with the District at the District's main administration building in Oakland, California to 1) review the conclusions from the existing data review completed as part of Task 4; 2) refine the District's goals for the relicensing; and 3) discuss potential strategies for achieving those goals. Goals may include or relate to minimizing costs, maintaining operational flexibility, protecting the public water supply, minimizing and/or mitigating any environmental impacts, avoiding negative PR, and/or generating positive PR.

Focus Group Meetings: Following relicensing Internal Workshop #1, the Consultant will facilitate a series of focus group consultation meetings organized by Technical Studies/Analysis Topics with professionally-qualified personnel assembled from relevant key external interested parties listed within this Task and, inclusively or separately, with

Tribal representatives, if requested for confidentiality; the meetings could be in-person or virtual depending on the needs of the interested parties, but should be budgeted as in-person.

Preliminary Technical Studies/Analysis Topics are the following and may be refined by consolidation or expansion:

<ul style="list-style-type: none"> ▪ Historic Properties Management Plan (HPMP) ▪ Recreation Services ▪ Economics (e.g., Energy market, maintenance) ▪ Reservoir temperature management ▪ Flexible operations management ▪ Climate change 	<ul style="list-style-type: none"> ▪ Dam Safety ▪ Biological Ecosystem <ul style="list-style-type: none"> ○ JSA results evaluation ○ Surveys – fish, amphibian, water quality ▪ Tribal Interests ▪ Other
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These meetings will assist in proactively engaging external interested parties and convey an intent to collaborate before the formal ILP is initiated. Key talking points at these initial focus group meetings will likely include 1) a description of the District and proposed relicensing schedule; 2) a summary description of the Project (infrastructure, operations, and current natural resource mitigation efforts); 3) key considerations for the Project during the relicensing; and 4) initiating an understanding of key natural resource issues/interests associated with relicensing.

External Workshops: The Consultant will assist District staff in consulting individually with local governmental, water agency and special interest Boards and forums listed within this Task by presenting at the agency’s governance board meetings to provide an opportunity for them to understand the process and provide opportunities to share information and articulate concerns. The purpose of the external workshops will be to 1) introduce the Project team; 2) review the Project schedule and provide background on the purpose of the relicensing and applicable laws and regulations; 3) communicate the District’s goals and any major concerns associated with the relicensing; 4) ensure that relevant agencies and participating external interested parties have a clear understanding of the Project facilities, operations, and surrounding environment; 5) and provide an opportunity for agencies and participating external interested parties to share any concerns and listen to other external interested parties that may have shared or diverging interests.

Internal Workshop #2: Based on the information learned from key external interested parties at the focus group meetings and external workshops, the Consultant will facilitate a subsequent internal relicensing workshop with the District, during which the Project team can refine the overall relicensing strategy. The internal workshop may require being done in two parts, depending upon volume of information to cover.

Comprehensive External Interested Parties Meeting #1: Following the focus group meetings and external workshops, the Consultant will facilitate one comprehensive meeting with all available identified external interested parties at the Project site. A large, combined meeting with external interested parties at the Project site builds upon the previous substantive conversation with individual external interested parties at the focus group meetings and external workshops. The purpose of the comprehensive meeting will be to 1) introduce the Project team; 2) review the Project schedule and provide background on the purpose of the relicensing and applicable laws and regulations; 3) communicate the District’s goals and any major concerns associated with the relicensing; 4) ensure that the external interested parties have a clear understanding of the Project facilities, operations, and surrounding environment, 5) tour the Project site facilities (Mokelumne River Fish Hatchery, Pardee and Camanche Dams exteriors, recreational areas at Mokelumne River Day Use Area, Camanche Hills Hunting Preserve, Camanche North and South Shores, Pardee Recreation Area); 6) provide an opportunity for external interested parties to share any concerns and listen to other external interested parties that may have shared or conflicting interests; and 7) establish the Project’s Resource Working Groups (RWG), which will discuss study needs and collaboratively develop the Proposed Study Plan (PSP) in Task 8.

Anticipated RWG topic areas include 1) Fish, Wildlife and Aquatics; 2) Recreation; 3) Tribal Engagement; and 4) Hydro/Water Supply Resources and Operations. In collaboration with the District, the Consultant may recommend establishing additional RWG topic areas based on findings from the Comprehensive External Interested Parties Meeting #1 in this Task 6. That recommendation should also include an assessment on the need for a RWG on hydrological modeling. Each RWG is represented by external interested parties with an interest in the topic area. Meetings with RWG are subsequently held in Task 8.

Potential currently known external interested parties include (subject to refinement):

POTENTIAL EXTERNAL WORKSHOP PARTICIPANTS

- State Resource Agencies
- Federal Resource Agencies
- FERC Licensees on Mokelumne River
- Elected Officials
- Environmental Conservationists
- Tribes
- Local government
- Counties
- Boards/Committees
- Water agencies

Assumptions:

- a. A comprehensive contact list will be developed and maintained for the Project.
- b. Focus Group Meetings, External Workshops, Comprehensive External Interested Parties Meeting #1
 1. For each focus group, allocate a minimum of two meetings to accommodate availability of external interested parties
 2. For each external workshop, allocate one one-hour long presentation at the board meeting of each agency (currently 8) listed as a potential external workshop participant
 3. For the Comprehensive External Interested Parties Meeting #1, allocate one eight-hour long meeting for Project site visit
 4. Meetings with external interested parties will be conducted in-person (unless the party prefers virtual) and held at these potential locations:
 - EBMUD Pardee Center, Valley Springs, Ca
 - EBMUD Headquarters, Oakland, Ca
 - Upcountry Location TBD in Amador, Calaveras, San Joaquin, and Alpine Counties
- c. Meetings will include budget for Consultant's preparation time, agenda setting, follow-up, and a meeting summary.
- d. Additional working sessions shall be scheduled to address external interested parties concerns.
- e. RWGs include topic areas in
 1. Fish, Wildlife and Aquatics,
 2. Recreation,
 3. Tribal Engagement,
 4. Hydro/Water Supply Resources and Operations, and
 5. Subsequently identified additional groups.
- f. Internal meetings with District likely to be conducted by videoconference
- g. RFP requirements in Section I.D will apply to deliverables and review schedule

Deliverables:

- **Internal Workshop #1**
- **Focus Group Meetings** in advance of Internal Workshop #2
- **External Workshops** in advance of Internal Workshop #2
- Additional **Focus Group Meetings** on expanded topics and additional **External Workshops** with additional identified participants as necessary
- **Internal Workshop #2**
- **Comprehensive External Interested Parties Meeting #1**
- For all meetings, prepare meeting summaries discussing goals, desired outcomes, concerns, etc.

- For all meetings, PowerPoint presentation slides and any additional handouts, such as agendas ahead of the meeting date for District review

Task 7. Assist District's Development of the NOI and PAD (mid-2025 – late 2026)

The Lower Mokelumne River Project Notice of Intent (NOI) and Pre-Application Document (PAD) must be filed with FERC between November 1, 2025, and March 31, 2026.

The District leads and prepares the NOI and PAD, and the Consultant provides on-going support, assistance, and guidance to District staff in preparing the NOI and PAD to meet the level of adequacy and completeness expected in the FERC relicensing process. The Consultant, based on its experience of best practices, will advise the District, including providing templates of the PAD and NOI that the District can use. Consultant reviews and provides written comments on the draft NOI and PAD. The PAD summarizes existing, relevant information on the Project facilities and operations, surrounding natural environment, and other beneficial public uses occurring in the Project area. It documents any known or likely Project impacts and identifies what additional information will be necessary in order to make informed decisions regarding what potential protections, mitigations and enhancements (PMEs) should be implemented to address Project impacts. The emphasis here is on the word “necessary” since it is likely that some external interested parties will request data collection that does not have a Project nexus and/or is not necessary for decision-making. The PAD also documents information gaps identified by the District and proposes studies to address those gaps. This analysis sets the stage for the subsequent study planning phase of relicensing. It is critically important the PAD give an accurate representation of the existing environment and information needs to promote a collaborative working relationship with external interested parties. The District anticipates including a draft study plan or outline as an appendix for any studies proposed in the PAD.

The Consultant also includes in this task the development and release of a second questionnaire (Pre-PAD Questionnaire) for the District's review and approval. The Pre-Pad Questionnaire seeks existing, relevant, and reasonably available information pertaining to the Project to help identify: 1) sources of existing, relevant and reasonably available information; 2) known or potential effects or issues associated with the operation and maintenance of the Project; and 3) the potential need for information gathering and/or studies.

The staff, or subcontracted consultants under the District, will be technical leads who will be integrally involved in drafting the water, natural, recreation, cultural, and socioeconomic resource sections of the PAD. Consultant will advise District in providing clear direction and frequent communication with the technical leads to ensure consistency throughout the document. The Consultant's *Administration and Technical*

Support Lead coordinates with the District on this information and manage QA/QC reviews, so that the District ultimately develops a PAD that effectively summarizes and communicates this information. The Consultant will review studies proposed by resource working groups and external interested parties and will work with the District to concur on the information for presenting in the PAD.

Assumptions:

- a. The District prepares the NOI and PAD and files with the FERC per milestones and deadlines in Section II.
- b. RFP requirements in Section I.D will apply to deliverables and review schedule

Deliverables:

- Draft, revised draft, and final technical memorandum of written comments containing analysis/ filter with FERC’s criteria applied, from the Consultant’s review of:
 - draft NOI and PAD
 - studies proposed by resource working groups and external interested parties
- Electronic version of Pre-PAD Questionnaire for District’s distribution electronically to external interested parties

Task 8. Study Planning (late 2025 – 2026)

Within 60 days of filing the NOI/PAD, FERC will notice the NOI/PAD and issue a scoping document (SD1) that describes the issues that will address its environmental assessment (EA) or environmental impact statement (EIS). The Consultant will participate in the FERC’s subsequent scoping meeting and site visit.

The Consultant will initiate monthly meetings with resource working groups established in Task 6 (Continued Strategic Planning and Early Engagement with External Interested Parties) after FERC notices the PAD and issues the SD1 and will continue these meetings through the remainder of study planning.

The Consultant reviews and provides comments on the SD1 for District’s review. The Consultant reviews all public comments on the PAD, SD1, and any study requests and provides responses to each for District’s review. The Consultant will collaborate with the resource working groups and the District staff, which will lead the preparation of the Proposed Study Plan (PSP) under the Consultant’s support, assistance, and guidance. The Consultant uses the information presented in the PAD to help develop a rationale for the scope of each study, including the extent of each study area. The Consultant will make a determination and recommendation on the need to initiate development of a

hydro-economics model to strategically support study planning as described in Task 10. Alternatives Analysis and Continued Strategic Planning (2028).

The Consultant also advises District staff on the need to conduct any surveys, mapping exercises, or preliminary analysis potentially required to effectively defend these rationales when meeting with the resource working groups. After reviewing public comments on the PSP, the Consultant develops a comprehensive comment-response table. The Consultant will lead one meeting with District and FERC staff and external interested parties to resolve disagreements over study needs after filing of the PSP and lead additional meetings as necessary. The Consultant develops response to comments in the Revised Study Plan (RSP) as appropriate.

Assumptions:

- a. Allocate a minimum of two meetings for each RWG
- b. Consultant may recommend additional RWG meetings for any additional coordination that may be needed on specific topics
- c. Meetings with RWGs are up to 3-hour long standing calendar meetings and will be conducted in-person (unless the party prefers virtual) and held at these potential locations:
 - EBMUD Pardee Center, Valley Springs, Ca
 - EBMUD Headquarters, Oakland, Ca
 - Upcountry Location TBD in Amador, Calaveras, San Joaquin, and Alpine Counties
- d. Meetings will include budget for Consultant's preparation time, agenda setting, follow-up, and a meeting summary.
- e. The District leads and develops the Proposed Study Plan (PSP) and files with the FERC per milestones and deadlines in Section II.
- f. RFP requirements in Section I.D will apply to deliverables and review schedule

Deliverables:

- Participate in scoping meeting with FERC and the District
- Participate in site visit with FERC and the District
- Start meeting with resource working groups monthly through the end of study planning
- For each resource working group meeting, draft, revised draft, and final summary that includes a general description of key discussion items. A list of participants, agreements, agenda, presentation materials, and action items for the District's and external interested parties' review and comment
- Lead meeting with District and FERC staff and external interested parties on resolving disagreements over study needs

- Draft, revised draft, and final technical memorandum of the Consultant's:
 - Comments on SD1
 - Response to all public comments on PAD, SD1, and Study Requests
 - Recommended rationale for the scope of each study for the PSP, including the extent of each study area
 - Determination and recommendation on the need to initiate development of a hydro-economics model
 - Comprehensive comment-response table on review of public comments on the PSP
 - Recommendation on the need to conduct any surveys, mapping exercises, or preliminary analysis potentially required to effectively defend these rationales for the scope of each study
 - Response to public comments on the RSP

Task 9. Study Implementation and Reporting (2027 - 2028)

The Consultant should plan on using a dedicated *Study Program Coordinator* to effectively manage this phase of the project. The coordinator's roles and responsibilities include working proactively with each of the technical leads to obtain any necessary study permits, developing a study program schedule, consistently coordinating with study leads on the logistics associated with respective efforts, coordinating the use of any shared equipment amongst field crews, facilitating consistent communication and data sharing between technical leads as needed, and assisting the PM with tracking the individual and overall study schedules. The District will either contract directly with sub-specialty consultants, as needed under a separate Confidential Attorney Work Product agreement, or designate District staff for technical leads.

A major environmental change or a natural disaster such as a flood, landslide, severe drought, or wildfire during or after study implementation could delay data collection or make existing data obsolete. This may necessitate additional data collection efforts or study schedule delays which could negatively impact the overall Project schedule and budget. To mitigate this risk, the consultant team should consider identifying critical data collection for frontloading in the first study year. This approach allows for any unanticipated data collection to be conducted in the second year of the study program, in addition to the originally planned studies. Upon completion of the annual field work efforts, technical leads would immediately initiate the data analysis and study reporting efforts that will ultimately result in development of the Initial Study Report (ISR) (study year 1) and Updated Study Report (USR) (study year 2). District staff leads and prepares the ISR and USR, and the Consultant provides on-going support, assistance, and guidance to District staff in preparing the ISR and USR to meet the level of adequacy and completeness expected in the FERC relicense process. Consultant reviews and provides written comments on the draft ISR and USR. The Consultant will facilitate year-1 and year-2 study result meetings with the external interested parties, during which technical

leads present their annual study efforts, associated results, and conclusions related to potential Project impacts. Throughout the study reporting process, emphasis would be placed on demonstrating how the individual study results addressed the information gaps identified in the PAD.

Assumptions:

- a. The District prepares the ISR and USR and files with the FERC
- b. RFP requirements in Section I.D will apply to deliverables and review schedule
- c. Meetings will include budget for Consultant's preparation time, agenda setting, follow-up, and a meeting summary

Deliverables:

- Develop draft, revised draft, and final study program schedule with critical data collection identified for frontloading in the first study year
- Provide comments on drafts and revised drafts of Initial Study Report (ISR) (study year 1) and Updated Study Report (USR) (study year 2) authored by District
- Facilitate year-1 and year-2 study result meetings with the external interested parties

Task 10. Alternatives Analysis and Continued Strategic Planning (2028)

In conjunction with final study reporting, the Consultant will conduct an alternatives analysis to determine what PME's should be proposed in the Draft License Application (DLA), which the District leads and prepares. For this alternatives analysis, the Consultant develops a matrix that compares the costs, benefits, and impacts of various comprehensive alternative packages. The basis for these alternative packages should be any PME's currently in the existing license that the District and external interested parties agree are specific, measurable, and linked to providing protection or mitigation for direct Project effects. In addition, the hydro-economics model would be used to evaluate how any additional flow-related PME's would impact overall Project operations, generation, and lost revenue.

As part of the alternatives analysis, the Consultant will lead a series of virtual internal workshops with the District to discuss the pros and cons of each alternative, determine the District's preferred alternative, and refine the strategy for the remainder of the relicensing process in order to achieve that preferred alternative. This "end game" strategy should include determinations related to a preferred mitigation package for the DLA, what acceptable additional PME's the District might consider, if pressed by external interested parties for additional mitigation, and ultimately confirm the District's perspective on what a "successful outcome" from the relicensing effort would be.

The Consultant will seek input through a combination of meetings and written requests from specific external interested parties during the alternatives analysis process, specifically those agencies with Section 18, Section 4(e), or Section 10(j) conditioning authority (i.e., the National Marine Fisheries Service, U.S. Fish and Wildlife Service, and the California Department of Fish and Wildlife) as well as the California State Water Resources Control Board given their 401 Water Quality Certification mandates for the Project. Including these agencies and other identified priority external interested parties in the alternatives analysis will help to maintain positive working relationships with the goal of achieving a collaboratively developed and mutually agreed to Project mitigation package.

Assumptions:

- a. Allocate four virtual meetings total, one each with the four conditioning authority agencies to seek their input on alternatives analysis
- b. Consultant may recommend additional virtual meetings with external interested parties to seek their input on alternatives analysis
- c. Meetings will include budget for Consultant's preparation time, agenda setting, follow-up, and a meeting summary.
- d. RFP requirements in Section I.D will apply to deliverables and review schedule

Deliverables:

- Draft, revised draft, and final technical memorandum on alternatives analysis
- Virtual internal workshops with the District to evaluate alternatives and strategize on achieving preferred alternative
 - Lead workshop
 - Prepare meeting materials to facilitate
 - Draft, revised draft, and final workshop summary of discussions and outcomes
- Virtual meeting with specific external interested parties to seek input on alternatives analysis
 - Lead meeting
 - Prepare meeting materials to facilitate
 - Draft, revised draft, and final workshop summary of discussions and outcomes

Task 11. Development of the Draft License Application (2028)

The District leads and prepares the DLA, and the Consultant provides on-going support, assistance, and guidance to District staff in preparing the DLA to meet the level of adequacy and completeness expected in the FERC relicense process. The DLA will include all necessary exhibits that will ultimately be required in the Final License

Application (FLA) by the FERC to conduct their National Environmental Policy Act (NEPA) analysis and issue a new license for the Project. Because the existing license for the Lower Mokelumne River Project expires in March 2031, the District must file the FLA by March 2029, and the DLA must be filed no later than September 2028. To meet this filing deadline, District staff initiates development of the DLA early in 2028 during the second formal study year. This will require the District to effectively manage the development of the DLA in conjunction with final study reporting and coordinating the alternatives analysis. The Consultant management team should possess the depth and expertise necessary to coordinate these simultaneous efforts performed by the District and review for technical quality and consistency across all documents. The content of the DLA will build upon the existing information from the PAD and the new information from the studies by documenting the alternatives analysis results. Any draft PME or Resource Management Plans included in the DLA will focus on a realistic and reasonable approach for protecting the surrounding environment and mitigating the identified Project impacts (i.e., avoid enhancement measures). The Consultant will also oversee development of the Draft Biological Assessment (BA) by District staff during this phase and the District files it with the DLA.

Assumptions:

- a. The District prepares the DLA and files with the FERC per milestones and deadlines in Section II.
- b. The District prepares the Draft BA and files it with the DLA.
- c. RFP requirements in Section I.D will apply to deliverables and review schedule

Deliverables:

- Provide comments on draft and revised draft of DLA authored by the District
- Provide comments on draft Biological Assessment authored by the District

Task 12. Settlement Agreement Negotiations (2028 - 2029)

Any settlement agreements considered as part of the process should be driven by study results and data as much as possible to avoid unrealistic PMEs that may contradict the District's goals for the relicensing. Therefore, in an ideal linear process, settlement agreement negotiations would not start until final study reporting and the subsequent alternatives analysis are completed. If there was only one study year, then it may be possible to conduct these steps in a linear fashion. However, given the likelihood that a second study year will be needed, formal settlement discussions will be initiated in conjunction with the second study year in order to allow adequate time for the District to reach an agreement on PMEs. Initial settlement discussions should revolve around topics that the District and external interested parties can generally agree on, such as determining what PMEs currently in the existing license are specific, measurable, and

linked to providing protection or mitigation for direct Project impacts. As additional study results become available, settlement agreement negotiations can start to address more contentious/debated topics with an effort to eliminate “surprises” late in the negotiation process.

Settlement agreement negotiations are often complex and dynamic processes addressing a wide variety of topics and require that information be produced and distributed in advance of meetings that typically occur on an aggressive schedule. The Consultant must possess strategic and technical expertise necessary to meet these needs, depth to support settlement negotiations, and experience working with licensees and legal counsel in multi-party settlements during ongoing relicensing processes. The Consultant will need a proactive approach that endeavors to reach as many fundamental agreements on PME as possible, but realistically it is unlikely that a comprehensive settlement agreement will be mutually agreed to before filing the DLA. Consultant will join the District in meeting with the FERC representative either prior to or immediately following the DLA filing in order to provide a status update on settlement agreement negotiations. The Consultant will develop an agenda for the District to lead the meeting. The District would request that the FERC representative review the DLA to proactively confirm compliance with all FERC requirements and get any initial input on the proposal therein before they initiate the formal NEPA process. Typically, FERC is generally much more likely to conduct this kind of review and provide early feedback if the Project team has been consistently coordinating with FERC throughout the entire relicensing process.

Assumptions:

- a. Meetings will include budget for Consultant’s preparation time, agenda setting, follow-up, and a meeting summary.
- b. Meetings are all-day for settlement negotiations
- c. RFP requirements in Section I.D will apply to deliverables and review schedule

Deliverables:

- Facilitate settlement agreement negotiations between the District and external interested parties
 - Prepare meeting agenda
 - Draft, revised draft, and final meeting summary of discussions and outcomes
- Join the District in meeting with the FERC representative to provide status update on settlement agreement negotiations
 - Prepare meeting agenda
 - Draft, revised draft, and final meeting summary of discussions and outcomes

Task 13. Responding to Comments on the DLA and Development of the FLA (2029)

Public comments on the DLA are due within 90 days of its filing with FERC. External interested parties will also have the opportunity to request additional studies at this time; however, any requests for additional studies must include a justification statement and demonstration of extraordinary circumstances. By initiating settlement discussions early and appropriately managing risks throughout the relicensing process, the Consultant will strive to ensure that settlement agreement negotiations are concluded by the end of the 90-day comment period so that the agreed-upon PME can be fully incorporated into the FLA. As with all other documents prepared throughout the relicensing, the Consultant will utilize the comment-response table template to organize all public comments received, assign responsibility to the appropriate technical leads, and develop draft responses in a timely manner so that the District can quickly make decisions regarding how to respond and address those comments in the FLA. The District leads and prepares the FLA, and the Consultant provides on-going support, assistance, and guidance to District staff in preparing the FLA to meet the level of adequacy and completeness expected in the FERC relicense process.

Assumptions:

- a. The District prepares the FLA and files with the FERC per milestones and deadlines in Section II.
- b. RFP requirements in Section I.D will apply to deliverables and review schedule

Deliverables:

- Draft, revised draft, and final technical memorandum of Consultant's:
 - Comments-Response on review of public comments on the DLA
- Provide comments on drafts and revised drafts of the FLA authored by District

Task 14. Section 401 Water Quality Certification and ESA Section 7 Consultation (2027 - 2028)

The Consultant will facilitate a pre-filing meeting with the California State Water Resources Control Board (SWRCB) and the District, which presents at the meeting, at least 30 days before the District files the FLA. The District leads and prepares the Section 401 Water Quality Certification (WQC) application, and the Consultant provides on-going support, assistance, and guidance to District staff in preparing the WQC to meet the level of adequacy and completeness expected in the FERC relicense process. Consultant reviews and provides written comments on the draft Section 401 WQC. The application and proof of submittal to SWRCB will be filed by the District with the FERC within 60 days of the FERC's notice that the FLA is ready for environmental analysis. There is a risk that SWRCB could include conditions in the 401 WQC that contradict the

District's goals for the relicensing. There is a similar risk that NMFS and USFWS could add additional, unanticipated conditions to the new license for downstream ESA-listed species through a Section 7 consultation if their concerns are not otherwise addressed in the process. However, these risks will be significantly minimized by the Consultant Project team by placing proactive and consistent focus/priority on collaborating with these and other agencies with mandatory conditioning authority (i.e., USFWS and CDFW) throughout the entire relicensing process and settlement negotiations (Tasks 8, 10, and 12). The Consultant Project team will also work with SWRCB, NMFS, and USFWS early in the study planning phase (Task 8) to determine what site-specific information is necessary for the 401 WQC and ESA determinations.

Assumptions:

- a. The District prepares the application for Section 401 WQC and files with the SWRCB per milestones and deadlines in Section II.
- b. Meetings will include budget for Consultant's preparation time, agenda setting, follow-up, and a meeting summary.
- c. RFP requirements in Section I.D will apply to deliverables and review schedule

Deliverables:

- Pre-filing meeting with the District and SWRCB in support of the application for Section 401 WQC
 - Facilitate meeting
 - Prepare meeting agenda
 - Draft, revised draft, and final meeting summary of discussions and outcomes
- Provide comments on drafts and revised drafts of the application for 401 water quality certification authored by District

Task 15. Review FERC Documents and Develop Compliance Task List (2030 - 2031)

The Consultant will review and provide comments on FERC's draft Environmental Assessment (EA) or Environmental Impact Statement (EIS), draft license articles, and agency conditions (sections 4e, 10j, and prescribed fishways). This review will ensure the accuracy of technical information and, if necessary, address any remaining issues related to agency conditions so that nothing included in the FERC license is a surprise or conflicts with the negotiated settlement agreement. Upon issuance of the final EA/EIS, Biological Opinion, and License Order, the Consultant will develop a comprehensive list of compliance activities and associated deadlines for submission to the District. In addition, the Consultant will provide for the District's consideration recommendations on compliance tracking management tools, methods, or commercially-available software.

Assumptions:

- a. RFP requirements in Section I.D will apply to deliverables and review schedule

Deliverables:

- Draft, revised draft, and final technical memorandum of the Consultant's:
 - Comments on draft EA/EIS, draft license articles, and draft 4e and 10j and prescribed fishways conditions
- Develop a license compliance task list
- Recommendations on compliance tracking management tools, methods, or software

D. DELIVERABLES / REPORTS

1. Specific deliverables are listed by task in Section I.C. (Specific Requirements) of this RFP.
2. All deliverables in draft, revised draft, and final versions will be submitted in the following format and applies to i) meeting handouts and agendas, ii) meeting summaries, iii) presentations, iv) study program schedules, v) comment reviews of District produced reports, and vi) technical memorandums:
 - a. Native format files, such as Microsoft Word, PowerPoint, etc.;
 - b. Digital spatial or geographic data, e.g. (geographic information system (GIS)); and
 - c. Delivery via email or, if the file size exceeds the District's system limits of 25 MB, the District's Project SharePoint site, or a secured website provided by the Consultant. Disks or flash drives will not be accepted because they are not compatible with the security requirements of the District system.
3. In addition to requirements in the entirety of Section D.2 (Deliverables/ Reports), final version deliverables will be submitted in the following format and applies to i) meeting handouts and agendas, ii) meeting summaries, iii) presentations, iv) study program schedules, and v) technical memorandums:
 - a. One (1) electronic copy in PDF format covering the entirety of the work product in a text-searchable format and with section bookmarks (only for lengthy documents, or as requested); and
 - b. Original images of the photographs taken of the Project that are included in the documents.

4. The following review schedule applies to draft, revised draft, and final version of deliverables for i) comment reviews of District produced reports, and ii) technical memorandums:
 - a. At least 4-weeks ahead of the final deliverable due date, submit a **draft** for District review,
 - b. Allocate at least two weeks for the District’s review of the **draft**; although, the District could request additional time depending on the size/complexity of the deliverable,
 - c. Submit a **revised draft** that responds to District comments,
 - d. Allocate 5 business days for the District’s review of the **revised draft**, and
 - e. Submit a **final** that incorporates any District comments on the revised draft.

5. The following review schedule applies to draft, revised draft, and final version of deliverables for i) meeting handouts and agendas, ii) meeting summaries, iii) presentations, and iv) study program schedules:
 - a. At least 3-weeks ahead of the final deliverable due date, submit a **draft** for District review,
 - b. Allocate at least 3 business days for the District’s review of the **draft**,
 - c. Submit a revised draft that responds to District comments,
 - d. Allocate 2 business days for the District’s review of the **revised draft**, and
 - e. Submit a **final** that incorporates any District comments on the revised draft.

6. Monthly Progress Reports - One (1) electronic copy to accompany monthly invoices. Progress reports should describe work performed and associated costs per project task.

II. CALENDAR OF EVENTS

EVENT	DATE/LOCATION
RFP Issued	December 19, 2023
Response Due	January 29, 2024 by 4:00 p.m.
Select Consultant In-Person Interviews	February 7, 2024 – February 15, 2024 EBMUD’s Administration Building 375 Eleventh Street Oakland, CA 94607-4240
Anticipated Contract Start Date	April 16, 2024

Major Milestones and Deadlines for New License Process

Pre-filing	
April 2024	Contract execution
May 2025	District completes Preliminary Draft (80%) NOI/PAD
Aug 2025	District completes Final Draft PAD
Nov 2025 – Mar 2026	District completes Final PAD and NOI and file with the FERC [March 31, 2026 Deadline]
Post-Filing	
2026	District completes Proposed Study Plan (PSP) and files with the FERC
2026	District completes Revised Study Plan (RSP) and files with the FERC
2027	First formal study year and interim study reporting
2028	Second formal study year and final study reporting
Sep 2028	Deadline for District to file DLA with FERC
Feb 2029	Deadline for District to file FLA with FERC [March 31, 2029 Deadline]
2029 - 2030	Develop and submit the application for 401 water quality certification
Apr 2031	FERC issues new license

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

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

III. DISTRICT PROCEDURES, TERMS, AND CONDITIONS

A. RFP ACCEPTANCE AND AWARD

1. RFP responses will be evaluated by the Selection Committee and will be scored and ranked in accordance with the RFP section entitled “Evaluation Criteria/Selection Committee.”
2. The Selection Committee will recommend award to the Proposer who, in its opinion, has submitted the RFP response that best serves the overall interests of the District. Award may not necessarily be made to the Proposer with the lowest overall cost.
3. The District reserves the right to award to a single or to multiple General or Professional Service Providers, dependent upon what is in the best interest of the District.
4. The District has the right to decline to award this contract or any part of it for any reason.

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

B. EVALUATION CRITERIA/SELECTION COMMITTEE

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

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

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

Oral Presentation and Interview

Based on their submitted proposals, up to three top-ranked qualified proposing consultants will be invited to present and interview with a panel of EBMUD staff; however, the number of shortlisted firms may be adjusted based upon the number of submittals received and the range of total evaluation scores identified. At the interview, the consultant will introduce the project manager, the spokesperson, and any other key members of the proposing team and present a summary of their proposal. The interview format will include a presentation by the consultant for up to 25 minutes followed by a question-and-answer session of up to 25 minutes with the District interview panel. The District has the discretion to allocate more time for the interview, if necessary.

The Evaluation Criteria are as follows:

Evaluation Criteria with score weighting	
A.	<p>Technical Criteria (10): 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. Professional Services - 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 with managing FERC license application preparation, mediation and negotiation, and demonstrated established relationships with local, regional, and federal regulators.
B.	<p>Estimated Project Cost (10): The Proposer’s estimated project cost will be evaluated by:</p> <ol style="list-style-type: none"> 1. Reasonableness (i.e., does the proposed pricing accurately reflect the Proposer’s effort to meet requirements and objectives?); 2. Realism (i.e., is the proposed cost appropriate to the nature of the products and services to be provided?); and 3. Affordability (i.e., the ability of the District to finance this project). <p>Consideration of price in terms of overall affordability may be controlling in circumstances where two or more RFP responses are otherwise judged to be equal, or when a superior RFP response is at a price that the District cannot afford.</p>
C.	<p>Implementation Plan and Schedule (15): An evaluation will be made of the likelihood that the Proposer’s implementation plan and schedule will meet the District’s schedule, considering the Proposer’s bandwidth to accommodate this workload based on the number, size, and stage of completion of the Proposer’s ongoing relevant projects and the current commitment of assigned personnel. Milestones and schedule are clearly identified. Additional credit will be given for the identification and planning for mitigation of schedule risks which the Proposer believes may adversely affect the schedule, presentation of alternative schedules, and illustrating in a value assessment the benefits of a recommended approach that manages and mitigates risk.</p>
D.	<p>Relevant Experience (15): 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 meet the minimum qualifications listed in Section I.B.1 and I.C. (Task 1) of this RFP to serve in the listed roles, and have experience on similar projects?

	<ol style="list-style-type: none"> 2. Are résumés complete in stating each individual’s technical discipline and proficiency, and do they demonstrate from experiences on similar projects that the individuals possess the relevant knowledge and skills at the proficiency level identified in the RFP? 3. How extensive is the applicable education and experience of the personnel designated to work on the project?
E.	<p>References (See Exhibit A – RFP Response Packet) (5): If a short list process is used for a solicitation, references are only performed on the shortlisted Proposers and the score for reference checks is not included in the preliminary short list score.</p> <ol style="list-style-type: none"> 1. Did the individuals identified by the Proposer for this RFP actually perform the work included as a reference? 2. Are the scope of the references relevant and comparable to the project for this RFP?
F.	<p>Oral Presentation and Interview (15): The oral interview consists 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. How well prepared and effective are the presenters in discussing the proposal approach? 2. How responsive are the presenters in clearly addressing the District’s interview questions?
G.	<p>Understanding of the Project (10): 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 the project? 2. How well has the Proposer identified pertinent issues and potential problems related to the project? 3. Has the Proposer demonstrated that it understands the deliverables the District expects it to provide? 4. Has the Proposer put together a qualified team? 5. Has the Proposer demonstrated that it understands the District’s time schedule and can meet it?
H.	<p>Methodology (15): 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?

I.	<p>Contract Equity Program (5): 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 first 86 months of any contract that may be awarded pursuant to this RFP.
2. All prices quoted shall be in United States dollars.
3. Price quotes shall include any and all payment incentives available to the District.
4. Proposers are advised that in the evaluation of cost, if applicable, it will be assumed that the unit price quoted is correct in the case of a discrepancy between the unit price and extended price.

D. NOTICE OF INTENT TO AWARD AND PROTESTS

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

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

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

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

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

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

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

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

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

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

E. INVOICING

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

2. The District will notify the 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:

Attn: Joe Tam, Associate Civil Engineer
EBMUD- Water Resources Planning Division
E-Mail: joe.tam@ebmud.com
PHONE: (510) 287-1389

FOR INFORMATION ON THE CONTRACT EQUITY PROGRAM:

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

AFTER AWARD:

Attn: Joe Tam, Associate Civil Engineer
EBMUD-Water Resources Planning Division
E-Mail: joe.tam@ebmud.com
PHONE: (510) 287-1389

B. SUBMITTAL OF RFP RESPONSE

1. At this time, no hardcopy proposals will be accepted. Attach your RFP response in pdf format prior to the bid due date/time for the RFP submittal and email it in its entirety to sabrina.cheng@ebmud.com, Subject: "RFP - LMR Relicensing Project Proposal Submittal, WRD-2024-1". 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 (510) 287-1109 to check receipt of the proposal if you do not receive a confirmation email.
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 the existing text for any part of Exhibits A, B, C, or D or qualify their RFP responses. Proposers shall not submit to the District a re-typed or otherwise re-created version of these documents or any other District-provided document.**
2. RFP responses, in whole or in part, are NOT to be marked confidential or proprietary. The District may refuse to consider any RFP response or part thereof so marked. RFP responses submitted in response to this RFP may be subject to public disclosure. The District shall not be liable in any way for disclosure of any such records.



EXHIBIT A

RFP RESPONSE PACKET

RFP For Lower Mokelumne River Relicensing Project Strategic Consulting and Facilitation Services WRD-2024-1

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

From: _____
(Official Name of Proposer)

RFP RESPONSE PACKET GUIDELINES

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



PROPOSER INFORMATION AND ACCEPTANCE

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

Addendum #	Date

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

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

9. The undersigned acknowledges that RFP responses, in whole or in part, are NOT to be marked confidential or proprietary. The District may refuse to consider any RFP response or part thereof so marked. RFP responses submitted in response to this RFP may be subject to public disclosure. The District shall not be liable in any way for disclosure of any such records.
10. The undersigned Proposer hereby submits this RFP response and binds itself to the District. The RFP, subsequent Addenda, 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
- Limited Liability Partnership
- Limited Liability Corporation
- Other: _____
- Joint Venture
- Partnership
- Non-Profit / Church

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: _____

Does proposer or any employee/representative/service provider have any relatives currently employed with EBMUD? (This does not impact award of a qualified proposal; required reporting purposes only.)

YES NO

If so, please list :

CONTRACTOR OR CONTRACTOR EMPLOYEE FIRST AND LAST NAME	DISTRICT EMPLOYEE FIRST AND LAST NAME	RELATIONSHIP

SIGNATURE: _____

Name and Title of Signer (printed): _____

Dated this _____ day of _____ 20_____



ESTIMATED PROJECT COSTS

Estimated Project Costs shall be submitted in a format similar to the Exhibit B-1 Cost Distribution and Exhibit B-2 Labor Distribution tables of the EBMUD Standard Consulting Agreement included in Exhibit C of this RFP. List tasks, unit costs, level of effort, indirect costs, other direct costs, etc. and markups. The estimated project costs shall not include Sales Tax or Use Tax; said tax, wherever applicable, will be paid by the District to the Professional Service Provider, if licensed to collect, or otherwise directly to the State.

RFP responses that do not include Estimated Project Costs may be subject to rejection in total. The cost quoted shall be the cost the District will pay for the term of any contract that is a result of this RFP process. No minimum or maximum is guaranteed or implied from the estimates.



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. This synopsis should not exceed three (3) pages in length and should be easily understood.
3. **Key Personnel:** RFP response shall include an organization chart of the team and a complete list of all key personnel, including applicable sub-consultants, associated with the RFP. This list must include all key personnel who will provide services to the District and all key personnel who will provide 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, fax number, and e-mail address;
 - (d) The person’s educational background; and
 - (e) The person’s relevant experience, certifications, and/or merits

Include résumés to supplement an individual’s qualifications. Experience from past projects should include the project’s context and clearly demonstrate that the individual possesses the relevant knowledge and skills at the proficiency level identified in the RFP.

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. Clearly and completely discuss each task and subtask in sufficient detail to present your method of approach. The description shall contain a basis of estimate for services including its scheduled start and completion dates, the number of Proposer’s and District personnel involved, and the number of hours scheduled for each person. Include the estimated project costs. Finally, the description must: (1) specify how the services in the RFP response will meet or exceed the requirements of the District; (2) explain any special resources or approaches that make the services of the Proposer particularly advantageous to the District; and (3) identify any limitations or restrictions of the Proposer in providing the services that the District should be aware of in evaluating its response to this RFP.

5. **Implementation Plan and Schedule:** The RFP response shall include an implementation plan and schedule with milestones identified. Using the calendar of events as a guide, the plan shall include a detailed schedule indicating how the Proposer will ensure adherence to the timetables for services, including identification and plans to mitigate schedule risks which the Proposer believes may adversely affect the schedule, and present alternative schedules. Illustrate in a value assessment the benefits of a recommended approach that manages and mitigates risk. The schedule should allocate two weeks for the District's review of draft deliverables plus the Consultant's time to incorporate the District's comments before deliverables are finalized.
6. **References:**
- (a) Proposers must include all information sought from the templates in the "References" section of this Exhibit A – RFP Response Packet to provide references.
 - (b) References should have similar scope, volume, and requirements to those outlined in these specifications, terms, and conditions.
 - Proposers must verify the contact information for all references provided is current and valid.
 - Proposers are strongly encouraged to notify all references that the District may be contacting them to obtain a reference.
 - (c) The District may contact some or all of the references provided in order to determine Proposer's performance record on work similar to that described in this RFP. The District reserves the right to contact references other than those provided in the RFP response and to use the information gained from them in the evaluation process.
7. **Exceptions, Clarifications, Amendments:**
- (a) The RFP response shall include a separate section calling out all clarifications, exceptions, and amendments, if any, to the RFP and associated RFP documents, which shall be submitted with the proposer's RFP response using the template in the "Exceptions, Clarifications, Amendments" section of this Exhibit A – RFP Response Packet.
 - (b) **THE DISTRICT IS UNDER NO OBLIGATION TO ACCEPT ANY EXCEPTIONS, AND SUCH EXCEPTIONS MAY BE A BASIS FOR RFP RESPONSE DISQUALIFICATION.**
8. **Contract Equity Program:**
- (a) Every proposer must fill out, sign, and submit the appropriate sections of the Contract Equity Program and Equal Employment Opportunity documents located at the hyperlink contained in the last page of this Exhibit A. Special attention should be given to completing Form P-25, "Employment Data and Certification". Any proposer needing assistance in completing these forms should contact the District's Contract Equity Office at (510) 287-0114 prior to submitting an RFP response.



REFERENCES

RFP For Lower Mokelumne River Relicensing Project Strategic Consulting and Facilitation Services

WRD-2024-1

Proposer Name: _____

Proposer must provide a minimum of 3 references.

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

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

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

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

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



EXCEPTIONS, CLARIFICATIONS, AMENDMENTS

RFP For Lower Mokelumne River Relicensing Project Strategic Consulting and Facilitation Services

WRD-2024-1

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.

Table with 4 columns: Page No., Section, Item No., and Description. Includes an example row with 'p. 23', 'D', '1.c.', and 'Proposer takes exception to...'. A large 'EXAMPLE' watermark is overlaid on the table.

*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 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. 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.
- H. 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.”
- I. 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).

- J. "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.

- K. 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:	\$4,000,000
- 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. Insurance policies and Additional Insured Endorsements shall not exclude coverage for liability and damages from services performed by Subcontractor on CONTRACTOR's behalf.
 4. 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."
 5. "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.
 6. 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.

7. 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.
 8. 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

*(Standard Consulting Agreement for
Contracts Greater than \$80,000 - Revised 6/2/2021)
(Note: Reference District Procedure No. 451)*

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

THIS Agreement is made and entered into this _____ day of *(month)*, 20__, 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

IF OVER \$80,000:

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

-OR- IF BETWEEN \$30,000 AND \$80,000:

WHEREAS, DISTRICT has authorized the contract by approval of the General Manager.

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

ARTICLE 1 - SCOPE OF WORK

- 1.1 CONSULTANT agrees to furnish services set forth in Exhibit A, Scope of Services, attached hereto and incorporated herein. The services authorized under this Agreement shall also include all reports, manuals, plans, and specifications as set forth in Exhibit A.
- 1.2 CONSULTANT's work products shall be completed and submitted in accordance with DISTRICT's standards specified, and according to the schedule listed, in Exhibit A. The completion dates specified herein may be modified by mutual agreement between DISTRICT and CONSULTANT provided that DISTRICT's Project Manager notifies CONSULTANT of modified completion dates by letter. CONSULTANT agrees to diligently perform the services to be provided under this Agreement. In the performance of this Agreement, time is of the essence.
- 1.3 It is understood and agreed that CONSULTANT has the professional skills necessary to perform the work agreed to be performed under this Agreement, that DISTRICT relies upon the professional skills of CONSULTANT to do and perform CONSULTANT's work in a skillful and professional manner, and CONSULTANT thus agrees to so perform the work. CONSULTANT represents that it has all the necessary licenses to perform the work and shall maintain them during the term of this Agreement. CONSULTANT agrees that the work performed under this Agreement shall follow practices usual and customary to the (*state type - for example "engineering"*) profession and that CONSULTANT is 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.

(Include the following paragraph only if your scope of services includes Optional Services.)

- 3.2 DISTRICT may at its option issue a Notice to Proceed for some or all of the Optional Services tasks described in Exhibit A. Compensation for Optional Services shall be in accordance with the method and amounts described in Exhibit B.

ARTICLE 4 - TERMINATION

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

(Optional)

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

ARTICLE 5 - PROJECT MANAGERS

- 5.1 DISTRICT designates *(District Project Manager's name)* as its Project Manager, who shall be responsible for administering and interpreting the terms and conditions of this Agreement, for matters relating to CONSULTANT's performance under this Agreement, and for liaison and coordination between DISTRICT and CONSULTANT. CONSULTANT may be requested to assist in such coordinating activities as necessary as part of the services. In the event DISTRICT wishes to make a change in the DISTRICT's representative, DISTRICT will notify CONSULTANT of the change in writing.
- 5.2 CONSULTANT designates *(Consultant Project Manager's name)* as its Project Manager, who shall have immediate responsibility for the performance of the work and for all matters relating to performance under this Agreement. Any change in CONSULTANT designated personnel or subconsultant shall be subject to approval by the DISTRICT Project Manager. *(The following sentence is optional.)* CONSULTANT hereby commits an average of *(1 to 100)* percent of *(Consultant Project Manager's name)* time on this project for the duration of the project.

ARTICLE 6 - CONTRACT EQUITY PROGRAM COMPLIANCE

- 6.1 CONSULTANT expressly agrees that this Agreement is subject to DISTRICT's Contract Equity Program ("CEP"). CONSULTANT is familiar with the DISTRICT's CEP and Equal Opportunity Guidelines, and has read and understood all of the program requirements. CONSULTANT understands and agrees to comply with the CEP and all requirements therein, including each of the Good Faith Efforts. CONSULTANT further understands and agrees that non-compliance with the CEP requirements may result in termination of this Agreement.

(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

(IF DEPT. WANTS TO MODIFY INDEMNITY LANGUAGE, PLEASE SUBMIT JUSTIFICATION IN WRITING TO LEGAL, CC: RISK MANAGER.)

(FOR DESIGN PROFESSIONAL CONTRACTS (ENGINEERS, ARCHITECTS, LANDSCAPE ARCHITECTS, LAND SURVEYORS OR THEIR FIRMS), USE 7.1 BELOW:

7.1 Indemnification

CONSULTANT expressly agrees to defend, indemnify and hold harmless DISTRICT and its Directors, officers, agents and employees from and against any and all loss, liability, expenses, claims, suits, and damages, including attorneys' fees, arising out of or pertaining to, or relating to CONSULTANT's, its associates', employees', subconsultants', or other agents' negligence, recklessness or willful misconduct in the operation and/or performance under this Agreement.

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

(OR if contract is NOT with a design professional (engineers, architects, landscape architects, land surveyors or their firms) USE THIS PARAGRAPH 7.1 INSTEAD:

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 ***(For construction management support Agreements only)***

CONSULTANT shall perform part of the work at sites where the DISTRICT's facilities are to be constructed, and which may contain unknown working conditions and contaminated materials. CONSULTANT shall be solely responsible for the health and safety of CONSULTANT's employees. CONSULTANT shall designate in writing to DISTRICT the field employee who is responsible for the health and safety of its employees. The responsible employee shall have experience and knowledge of all Federal, State and local health and safety regulation requirements. All CONSULTANT personnel on construction sites shall have received all OSHA required health and safety training.

7.3 ***(For construction management support Agreements only)***

In the event that any hazardous materials are encountered during the services provided by CONSULTANT or the work undertaken by construction contractors, DISTRICT shall sign any and all manifests relating to the generation, treatment, disposal or storage of all wastes associated with the work. Additionally, nothing contained in this Agreement shall be construed or interpreted as requiring CONSULTANT to assume the status of a generator, storer, treater, transporter, or disposal facility as those terms appear within the Resource Conservation and Recovery Act, 42 USCA, Section 6901, et seq. (RCRA), or within any state statute of similar effect governing the generation, storage, treatment, transportation, or disposal of wastes.

7.4 ***(For construction management support Agreements only - include only if design consultant and CM consultant are not the same)***

It is agreed and understood by CONSULTANT and DISTRICT that the design services have been completed by ***(design consultant's name)*** and therefore, CONSULTANT did not undertake any design activity or have design responsibility of the facilities to be constructed prior to execution of this Agreement.

7.5 **Insurance Requirements**

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

ARTICLE 8 - NOTICES

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

(consulting firm's name)

(address)

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

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

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

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

P.O. Box 24055

Oakland, CA 94623-1055

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

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

ARTICLE 9 - MISCELLANEOUS

9.1 This Agreement represents the entire understanding of DISTRICT and CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may only be modified by amendment in writing signed by each party.

- 9.2 This Agreement is to be binding on the successors and assigns of the parties hereto. The services called for herein are deemed unique and CONSULTANT shall not assign, transfer or otherwise substitute its interest in this Agreement or any of its obligations hereunder without the prior written consent of DISTRICT.
- 9.3 Should any part of this Agreement be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement can be interpreted to give effect to the intentions of the parties.
- 9.4 Multiple copies of this Agreement may be executed by the parties and the parties agree that the Agreement on file at the DISTRICT is the version of the Agreement that shall take precedence should any differences exist among counterparts of the Agreement.
- 9.5 This Agreement and all matters relating to it shall be governed by the laws of the State of California.
- 9.6 The District's waiver of the performance of any covenant, condition, obligation, representation, warranty or promise in this agreement shall not invalidate this Agreement or be deemed a waiver of any other covenant, condition, obligation, representation, warranty or promise. The District's waiver of the time for performing any act or condition hereunder does not constitute a waiver of the act or condition itself.
- 9.7 There shall be no discrimination in the performance of this contract, against any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, gender including gender identity or expression, age, marital or domestic partnership status, mental disability, physical disability (including HIV and AIDS), medical condition (including genetic characteristics or cancer), veteran or military status, family or medical leave status, genetic information, or sexual orientation. CONSULTANT shall not establish or permit any such practice(s) of discrimination with reference to the contract or any part. CONSULTANTS determined to be in violation of this section shall be deemed to be in material breach of this Agreement.

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

CONSULTANT shall include the nondiscrimination provisions above in all subcontracts.

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

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

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

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

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

ARTICLE 10 - TERM

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

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

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

EAST BAY MUNICIPAL UTILITY DISTRICT

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

Approved As To Form

By: _____
for the Office of the General Counsel

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

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

EXHIBIT A

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

SCOPE OF SERVICES

I. CONSULTANT SERVICES

CONSULTANT shall provide the following:

Contracted Services

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

Optional Services

(State each task with associated task number)

II. PROJECT SCHEDULE

(List schedule milestones and completion dates)

EXHIBIT B

East Bay Municipal Utility District (Project Title)

COMPENSATION

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

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

2.1 Direct Labor

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

2.2 Indirect Costs

DISTRICT shall pay CONSULTANT an overhead expense equal to (*insert overhead rate*) percent of labor costs incurred by CONSULTANT. CONSULTANT acknowledges and agrees that this overhead compensation is in lieu of itemized payments for indirect and overhead expenses which includes, but is not limited to:

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

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

The above items are illustrative, rather than exhaustive.

2.3 Subconsultant Services

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

2.4. Other Direct Costs

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

- 2.4.1. Automobile expenses at *(insert rate)* cents per mile when CONSULTANT is required to travel outside of the DISTRICT's service area. Mileage will NOT be reimbursed for rental car expenses, where the rental agreement specifies unlimited mileage.
- 2.4.2. DISTRICT will pay for necessary and reasonable travel expenses provided the travel is approved in advance by DISTRICT Project Manager, and providing that:
 - Each expense is separately identified (air fare, hotel, rental car) with an amount and date incurred. Confirming documents may be requested.
 - Charged mileage for vehicle mileage shall not exceed the current allowable Internal Revenue Service rate.

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

2.6 Budget Amounts

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

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

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

2.7 Billing and Payment

CONSULTANT shall invoice DISTRICT monthly for the actual costs incurred for work performed during the previous month. Actual costs shall include Direct Labor, Indirect Costs, Subconsultant Services, and Other Direct Costs as specified herein. Actual costs shall be invoiced by task as described in Exhibit A. Invoices shall set forth a description of the actual costs incurred and the services performed, the date the services were performed and the amount of time spent rounded to the nearest quarterly hour increment (.25) on each date services were performed and by whom. Supporting documentation for the invoice shall be organized to clearly identify the task charged and shall be supported by such copies of invoices, payroll records, and other documents as may be required by DISTRICT to authenticate invoiced costs. Copies of all invoices from any subconsultant(s) and outside service(s) shall be attached. ***(Insert the following sentence if paragraph 2.9 below applies and is included in agreement. "Where CONSULTANT is required by law to pay prevailing wage rates, supporting documentation for such work shall be in accordance with guidelines set forth below and shall include certified payroll reports. ")*** DISTRICT shall pay CONSULTANT within thirty (30) days, upon receipt of a proper CONSULTANT invoice, ***(Optional insert - include the following words here only if retention will be accumulated: "the amount invoiced less a ten percent (10%) retention***

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

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

2.8 Budget Status Reports

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

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

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

2.9.2 All public works projects awarded after January 1, 2015, are subject to compliance monitoring and enforcement by the DIR (LC § 1771.4) and all

Contractors are required post job site notices, “as prescribed by regulation” (LC § 1771.4).

- 2.9.3 Pursuant to Section 1773 of the Labor Code, the District has obtained from the Director of Industrial Relations of the State of California, the general prevailing rates of per diem wages and the general prevailing rates for holiday and overtime work in the locality in which the Work is to be performed, for each craft, classification, or type of worker needed to execute the contract. A copy of the prevailing wage rates is on file with the District and available for inspection by any interested party at www.dir.ca.gov.
- 2.9.4 The Contractor shall post a copy of the general prevailing rate of per diem wages at the jobsite pursuant to Section 1773.2 of the Labor Code.
- 2.9.5 Pursuant to Section 1774 of the Labor Code, the Contractor and any of its Subcontractors shall not pay less than the specified prevailing rate of wages to all workers employed in the execution of the contract.
- 2.9.6 The Contractor shall, as a penalty to the State or the District, forfeit not more than the maximum set forth in Section 1775 of the Labor Code for each calendar day, or portion thereof, for each worker paid less than the prevailing rates for the work or craft in which the worker is employed under the contract by the Contractor or by any Subcontractor under him. The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which such worker was paid less than the stipulated prevailing wage rate shall be paid to such worker by the Contractor.
- 2.9.7 General prevailing wage determinations have expiration dates with either a single asterisk or a double asterisk. Pursuant to California Code of Regulations, Title 8, Section 16204, the single asterisk means that the general prevailing wage determination shall be in effect for the specified contract duration. The double asterisk means that the predetermined wage modification shall be paid after the expiration date. No adjustment in the Contract Sum will be made for the Contractor’s payment of these predetermined wage modifications.
- 2.9.8 The Contractor and each Subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed in connection with the Work. The payroll records shall be certified and shall be available for inspection in accordance with the provisions of Section 1776 of the Labor Code. Certified payroll records shall be on the forms provided by the DIR or

contain the same information required on the Department's form

- 2.9.9 For public works projects awarded on or after April 1, 2015, or that are still ongoing after April 1, 2016, no matter when awarded, each Contractor and Subcontractor shall furnish the certified payroll related records as more specifically described above and in Labor Code section 1776 directly to the Labor Commissioner (see LC § 1771.4). These records shall be provided to the Labor Commissioner at least monthly or more frequently if required by the terms of the Contract. For exception on projects covered by collective bargaining agreements like a PLA, please see Labor Code section 1771.4.
- 2.9.10 In the event of noncompliance with the requirements of Section 1776 of the Labor Code, the Contractor shall have 10 days in which to comply subsequent to receipt of written notice specifying in what respects such Contractor must comply with said Section. Should noncompliance still be evident after such 10-day period, the Contractor shall, as a penalty to the State or the District, forfeit the amount set forth in Section 1776 of the Labor Code for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payments then due.
- 2.9.11 Pursuant to the provisions of Sections 1810, et seq. of the Labor Code the time of service of any worker employed upon the work shall be limited and restricted to eight hours during any one calendar day, and forty hours during any one calendar week, unless work performed by employees of the Contractor in excess of eight hours per day, and forty hours during any one calendar week, shall be permitted upon compensation for all hours worked in excess of eight hours per day at not less than one and one half times the basic rate of pay.
- 2.9.12 The Contractor shall, as a penalty to the State or the District, forfeit the amount set forth in Section 1813 of the Labor Code for each worker employed by the Contractor or by any Subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week in violation of the provisions of Labor Code, Sections 1810, et seq.
- 2.9.13 The Contractor and every Subcontractor shall keep an accurate record showing the name of and the actual hours worked each calendar day and each calendar week by each worker employed by him in connection with the Work; the record shall be kept open at all reasonable hours to the inspection of the District and to the Division of Labor Standards Enforcement of the State of California.

- 2.9.14 In the performance of a public works contract, the Contractor and any Subcontractor shall comply with the provisions concerning the employment of apprentices in Section 1777.5 of the Labor Code and any amendments thereof. In the event the Contractor or any Subcontractor willfully fails to comply with this requirement the Contractor or Subcontractor shall be subject to the penalties for noncompliance in Labor Code section 1777.7.
- 2.9.15 The Contractor and every Subcontractor shall post at the workplace and comply with all required wage related workplace postings. Copies of the required postings may be downloaded or ordered electronically from the Department of Industrial Relations website at <http://www.dir.ca.gov/wpnodb.html>.

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

EXHIBIT B-1

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

COST DISTRIBUTION

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

* ODCs = Other Direct Costs.

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

*** *Insert hourly rate.*

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

EXHIBIT B-2

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

LABOR DISTRIBUTION*

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

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

EXHIBIT C

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

CEP COMPLIANCE

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

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

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

EXHIBIT D
INSURANCE REQUIREMENTS

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

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

I. Provisions Applicable to All Required Insurance

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

S. Notice of Cancellation/Non-Renewal/Material Reduction The insurance requirements hereunder are mandatory and the DISTRICT may, at its sole and absolute discretion, terminate the services provided by CONSULTANT, should CONSULTANT breach its obligations to maintain the required coverage and limits set forth in this Agreement. No coverage required hereunder shall be cancelled, non-renewed or materially reduced in coverage or limits without

the DISTRICT being provided at least thirty (30) days prior written notice, other than cancellation for the non-payment of premiums, in which event the DISTRICT shall be provided ten (10) days prior written notice. Replacement of coverage with another policy or insurer, without any lapse in coverage or any reduction of the stated requirements does not require notice beyond submission to the DISTRICT of an updated Verification of Insurance which shall be met by having the CONSULTANT's insurance broker or agent update, sign and return this *Exhibit D*

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

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

Coverage A. Statutory Benefits Limits

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

Bodily Injury by accident: \$1,000,000 each accident

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

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

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

C. If there is an onsite exposure of injury to CONSULTANT, subcontractor, and/or subcontractor's employees under the U.S. Longshore and Harbor Workers' Compensation Act, the Jones Act, or under laws, regulations or statutes applicable to maritime employees, coverage is required for such injuries or claims.

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

E. If CONSULTANT is self-insured with respect to Workers' Compensation coverage, CONSULTANT shall provide to the DISTRICT a Certificate of Consent to Self-Insure from the California Department of Industrial Relations. Such self-insurance shall meet the minimum limit requirements and shall waive subrogation rights in favor of the DISTRICT as stated below in section "F."

F. Waiver of Subrogation. Workers' Compensation policies, including any applicable excess and umbrella insurance, must contain a waiver of subrogation endorsement providing that CONSULTANT and each insurer waive any and all rights of recovery by subrogation, or otherwise, against the DISTRICT, its directors, board, and committee members, officers, officials, employees, agents, and volunteers. CONSULTANT shall defend and pay any and all damages, fees, and costs, of any kind arising out of, pertaining to, or in any way relating to CONSULTANT's failure to provide waiver of subrogation from the insurance carrier.

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

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

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

Self-Insured Retention: Amount: \$ _____

Policy Limit: \$ _____

Policy Number: _____

Policy Period: from: _____ to: _____

Insurance Carrier Name: _____

Insurance Broker or Agent: Print Name: _____

Insurance Broker or Agent's Signature: _____

III. Commercial General Liability Insurance ("CGL") Coverage

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

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

C. Minimum Requirements. CGL insurance with minimum per occurrence and aggregate limits as follows:

Bodily Injury and Property Damage	\$2,000,000 per occurrence & aggregate
Personal Injury/Advertising Injury	\$2,000,000 per occurrence & aggregate
Products/Completed Operations	\$2,000,000 per occurrence & aggregate

D. Coverage must be on an occurrence basis.

E. Coverage for Products, and Completed Operations, and Ongoing Operations must be included in the insurance policies and shall not contain any “prior work” coverage limitation or exclusion applicable to any Services performed by CONSULTANT and/or subcontractor under this Agreement.

F. Insurance policies and Additional Insured Endorsement(s) Coverage shall be included for all premises and operations in any way related to this Agreement.

G. 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.

H. 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.”

I. 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).

J. “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.

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

Verification of Commercial General Liability (CGL) Insurance Coverage

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

Self-Insured: Amount: \$ _____

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

Policy Number: _____

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

Insurance Carrier Name: _____

Insurance Broker or Agent: Print Name: _____

Insurance Broker or Agent’s Signature: _____

IV. Business Auto Liability Insurance Coverage

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

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

B. Minimum Requirements. Auto insurance with minimum coverage and limits as follows:
Each Occurrence Limit (per accident) and in the Aggregate: \$2,000,000
Bodily Injury and Property Damage: \$2,000,000

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

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

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

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

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

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

Verification of Business Auto Liability Insurance Coverage

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

Self-Insured: Amount: \$ _____

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

Policy Number: _____

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

Insurance Carrier Name: _____

Insurance Broker or Agent: Print Name: _____

Insurance Broker or Agent's Signature: _____

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

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

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

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

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

Aggregate Limit: \$4,000,000

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: _____

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

4. 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."

5. "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.

6. 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.

7. 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.

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

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

Verification of Excess and/or Umbrella Liability Insurance Coverage

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

Self-Insured: Amount: \$ _____

Policy Number: _____

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

Insurance Carrier Name: _____

Insurance Broker or Agent: Print Name: _____

Insurance Broker or Agent's Signature: _____



EXHIBIT D IRAN CONTRACTING ACT CERTIFICATION

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

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

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

CERTIFICATION FOR PARAGRAPH 1:

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

Firm: _____

By: _____ Date: _____
(Signature of Bidder)

Title: _____

Signed at: _____ County, State of: _____

OR

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