

REQUEST FOR PROPOSAL (RFP)
for Occupied Facility Construction
Management and Inspection
Services
RFP# 566 24-03

ADDENDA

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

CONTACT

Maura Bonnarens, Senior Civil Engineer
(510) 287-1023
maura.bonnarens@ebmud.com

RESPONSE DUE

March 12, 2024
2:00 p.m. PST

SUBMIT ELECTRONICALLY TO*

Maura Bonnarens, EBMUD
maura.bonnarens@ebmud.com

**Hardcopy proposals will not be accepted*

EAST BAY MUNICIPAL UTILITY DISTRICT

RFP for Occupied Facility Construction Management and Inspection Services

RFP# 566 24-03

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I. STATEMENT OF WORK

A. SCOPE

It is the intent of these specifications, terms, and conditions to describe construction management and inspection services for two separate building system improvements projects in Oakland, CA, within East Bay Municipal Utility District's (EBMUD's or District's) occupied facilities.

East Bay Municipal Utility District (District) intends to award up to two (2) contracts to the Proposers who best meet the District's requirements.

B. PROPOSER QUALIFICATIONS

1. Proposer Minimum Qualifications

- a. Proposer, Proposer's principal, or Proposer's staff shall have been regularly engaged in the business of providing construction management and inspection services on projects involving building systems in occupied facilities and associated coordination with the tenants to facilitate the construction work for at least ten (10) years.
- b. Proposer shall possess all permits, licenses, and professional credentials necessary to perform services as specified under this RFP.
- c. This contract is a public works contract. Prevailing wages are required for this contract. All Proposers bidding on a public works project and all Subcontractors of any tier shall be registered with the State Department of Industrial Relations pursuant to Section 1725.5 of the Labor Code.

C. SPECIFIC REQUIREMENTS

Refer to EXHIBIT B – Scope of Services, in the Exhibits to this RFP.

Some of the challenges anticipated with this scope of work are described in the following paragraphs. Proposer should consider means of addressing or mitigating these project challenges in the proposed scope of work:

1. Occupied Building: Disruptive construction activities in an occupied building where clear communication with tenants, commitment to schedules, and minimizing disruptions will be important to project success.
2. Retrofit of Existing Systems: Modifications will be made to existing mechanical and electrical systems for which accurate, comprehensive as-built drawings may not be available.

3. District Security Procedures: The District has detailed procedures to maintain security in our facilities. Proposer will need to ensure security procedure compliance for the Proposer’s and construction contractor’s personnel.
4. Compliance and Coordination with City Building Department: Working with the City building department on inspections, compliance with building codes, and other permit conditions.
5. Night and weekend work: Some critical activities including system cutovers and outages may require 24-hour operations and night/weekend work to minimize tenant and public impacts.

D. DELIVERABLES / REPORTS

1. Deliverables are described in Exhibit B - Scope of Services, in the Attachments to this RFP.

II. CALENDAR OF EVENTS

EVENT	DATE/LOCATION
RFP Issued	February 6, 2024
Proposal Conference	Thursday, February 22, 2024, 1:30 p.m. PST EBMUD Administration Building 375-11 th Street 2 nd Floor Board Room Oakland, CA 94607
Response Due	March 12, 2024 by 2:00 p.m. PST
Oral Interviews (if conducted)	Week of March 26, 2024
Anticipated Contract Start Date	June 5, 2024

Note: All dates are subject to change by District.

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

A. Proposal Conference

A non-mandatory proposal conference will be held to:

1. Allow the District to discuss the scope of the project.
2. Provide Proposers an opportunity to view documents, etc. necessary to respond to this RFP.

3. Provide an opportunity for Proposers to ask specific questions about the project and request RFP clarifications.
4. Provide the District with an opportunity to receive feedback regarding the project and RFP.

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

III. DISTRICT PROCEDURES, TERMS, AND CONDITIONS

A. RFP ACCEPTANCE AND AWARD

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

B. EVALUATION CRITERIA/SELECTION COMMITTEE

All proposals will be evaluated by a Selection Committee. The Selection Committee may be composed of District staff and other parties that have expertise or experience in this type of procurement. The Selection Committee will select a Proposer in accordance with

the evaluation criteria set forth in this RFP. The evaluation of the RFP responses shall be within the sole judgment and discretion of the Selection Committee.

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

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

The Evaluation Criteria are as follows:

	Evaluation Criteria
A.	<p>Firm Qualifications: RFP responses will be evaluated against the RFP specifications and the questions below:</p> <ol style="list-style-type: none"> 1. Does the firm have technical experience in performing work of a similar nature for another public entity? 2. What is the strength and stability of the firm?
B.	<p>Relevant Experience of Key Personnel: RFP responses will be evaluated against the RFP specifications and the questions below:</p> <ol style="list-style-type: none"> 1. Do the individuals assigned to the project have experience on similar projects? 2. Are résumés complete and do they demonstrate backgrounds that would be desirable for individuals engaged in the work the project requires? 3. How extensive is the applicable education and experience of the personnel designated to work on the project? 4. Capability and experience of the team to develop creative alternatives to eliminate or mitigate potential risk of schedule delay and/or cost impacts on similar projects. 5. Experience and background of Construction Manager, and Construction Inspector’s demonstrating capabilities in the Project scope of work.
C.	References (See Exhibit A – RFP Response Packet):

	If a short list process is used for a solicitation, references are only performed on the shortlisted Proposers and the score for reference checks is not included in the preliminary short list score.
D.	Oral Presentation and Interview: The oral interview may consist of standard questions asked of each of the Proposers and specific questions regarding the specific RFP response.
E.	Contract Equity Program: Proposer shall be eligible for SBE or DVBE preference points if they are a certified small business entity, as described in the guidelines contained in Exhibit A-Contract Equity Program, <u>and</u> they check the appropriate box, requesting preference, in Exhibit A-Proposer Information and Acceptance. Qualified DVBEs and/or SBEs will receive an additional 5 points to their total score.
F.	Overall Responsiveness to the RFP

c. NOTICE OF INTENT TO AWARD AND PROTESTS

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

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

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

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

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

protester, they shall include their contact information in addition to that of the protesting firm.

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

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

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

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

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

D. INVOICING

1. Following the District's acceptance of product(s) meeting all specified requirements, and/or the complete and satisfactory performance of services, the District will render payment within thirty (30) days of receipt of a correct invoice.
2. The District will notify the General or Professional Service Provider of any invoice adjustments required.

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

E. PUBLIC WORKS REQUIREMENTS

1. Prevailing Wages

Contractors shall pay prevailing wages for the performance of inspections at the jobsite, as well as any work that qualifies as “public works” under Section 1720 of the Labor Code.

The Contractors 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.

Pursuant to the provisions of Division 2, Part 7, Chapter 1, Article 2, and any amendments thereof of the Labor Code of the State of California, the Contractor and any Subcontractor shall pay not less than the specified prevailing rate of wages to all workers employed in the execution of the contract.

The Contractors shall, as a penalty to the State or the District, forfeit Twenty-Five (\$25.00) Dollars for each calendar day, or portion thereof, for each worker paid less than the stipulated prevailing rates for any work or craft in which such worker is employed under the contract by the Contractor or by any Subcontractor. The difference between such stipulated prevailing wage rates and the amount paid to such worker for each calendar day or portion thereof for which each worker was paid less than the stipulated prevailing wage rate shall be paid to each worker by the Contractor. The Contractors shall comply with the provisions of Section 1776 of the Labor Code of the State of California. For all classes of work not specified herein, the minimum wage shall be that specified for general laborer.

The specified wage rates are minimum rates only and the District will not consider and shall not be liable for any claims for additional compensation made by the Contractors because of payment by Contractors of any wage rate in excess of the general prevailing rates. All disputes in regard to the payment of wages in excess of those specified herein shall be adjusted by the Contractor at their own expense.

The holidays upon which such rates shall be paid shall be all holidays recognized in the collective bargaining agreement applicable to the particular craft, classification, or type of worker employed on the project.

Contractors shall retain prevailing wage payment records and submit such records to the Department of Industrial Relations pursuant to Labor Code sections 1771, 1771.4, and 1776.

2. Registration with Department of Industrial Relations

All Contractors proposing on a public works project, including Subcontractors, shall be registered with the State Department of Industrial Relations pursuant to Section 1725.5 of the Labor Code.

3. Additional Requirements

In addition to the above requirements, the successful Proposers will be required to comply with all state laws applicable to public works.

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: Maura Bonnarens, Senior Civil Engineer

EBMUD-Engineering & Construction Department, Engineering Services Division

E-Mail: maura.bonnarens@ebmud.com

PHONE: (510) 287-1023

FOR INFORMATION ON THE CONTRACT EQUITY PROGRAM:

Attn: Contract Equity Office

PHONE: (510) 287-0114

AFTER AWARD:

Attn: Maura Bonnarens, Senior Civil Engineer

EBMUD- Engineering & Construction Department, Engineering Services Division

E-Mail: maura.bonnarens@ebmud.com

PHONE: (510) 287-1023

B. SUBMITTAL OF RFP RESPONSE

1. At this time, no hardcopy proposals will be accepted. Upload your RFP response in pdf format and prior to the bid due date/time RFP submittals, in their entirety, shall be emailed to maura.bonnarens@ebmud.com. The District's email has limitations on attachment size. Make sure your response is less than 25 megabytes. If the file exceeds the limit, you will need to send multiple emails. Proposers are solely responsible for ensuring timely delivery of the proposals. The District shall not be responsible for any issues related to transfer of files through email. You may call at (510) 287-1023 to check receipt of the proposal.
2. All costs required for the preparation and submission of an RFP response shall be borne by the Proposer.
3. California Government Code Section 4552: In submitting an RFP response to a public purchasing body, the Proposer offers and agrees that if the RFP response is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the Proposer for sale to the purchasing body pursuant to the RFP response. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the Proposer.
4. Proposer expressly acknowledges that it is aware that if a false claim is knowingly submitted (as the terms "claim" and "knowingly" are defined in the California False Claims Act, Cal. Gov. Code, §12650 et seq.), the District will be entitled to civil remedies set forth in the California False Claim Act.
5. The RFP response shall remain open to acceptance and is irrevocable for a period of one hundred eighty (180) days, unless otherwise specified in the RFP documents.
6. It is understood that the District reserves the right to reject any or all RFP responses.

C. RESPONSE FORMAT

1. **Proposers shall not modify 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
Occupied Facility Construction Management and Inspection Services
RFP# 566 24-03

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):

- | | |
|--|--|
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Joint Venture |
| <input type="checkbox"/> Limited Liability Partnership | <input type="checkbox"/> Partnership |
| <input type="checkbox"/> Limited Liability Corporation | <input type="checkbox"/> Non-Profit / Church |
| <input type="checkbox"/> Other: _____ | |

Jurisdiction of Organization Structure: _____

Date of Organization Structure: _____

Federal Tax Identification Number: _____

Department of Industrial Relations (DIR) Registration Number: _____

Primary Contact Information:

Name / Title: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

Street Address Line 1: _____

City: _____ State: _____ Zip Code: _____

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_____



PROPOSAL FORM

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

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

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

Description	Estimated Total Hours	Estimated Cost (Including Prevailing Wages)
Project 1 – AB Fiber Optic Backbone Replacement		
Provide all services as described in this RFP# 566 24-03.		\$
Project 2 – AMC AB HVAC Replacement		
Provide all services as described in this RFP# 566 24-03.		



REQUIRED DOCUMENTATION AND SUBMITTALS

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

1. **Letter of Transmittal:** RFP response shall include a description of the Proposer’s capabilities and approach in providing its services to the District, and provide a brief synopsis of the highlights of the RFP response and overall benefits to the District. This synopsis should not exceed three (3) pages in length and should be easily understood.
2. **Key Personnel:** RFP response shall include a complete list of all key personnel associated with the RFP. This list must include all key personnel who will provide services/training to District staff and all key personnel who will provide maintenance and support services. For each person on the list, the following information shall be included:
 - (a) The person’s relationship with the Proposer, including job title and years of employment with the Proposer;
 - (b) The role that the person will play in connection with the RFP;
 - (c) The person’s telephone number, fax number, and e-mail address;
 - (d) The person’s educational background; and
 - (e) The person’s relevant experience, certifications, and/or merits
3. **Description of the Proposed Services including Project Approach:** The proposal shall include a detailed scope of services, similar to what would be incorporated into the final agreement between the District and the Consultant. The description shall contain a basis of estimate for services including its scheduled start and completion dates, the number and title of Proposer’s and District personnel involved, and the number of hours scheduled for each person. Finally, the description must: (1) specify how the services in the RFP response will meet or exceed the requirements of the District; (2) explain any special resources or approaches that make the services of the Proposer particularly advantageous to the District; and (3) identify any limitations or restrictions of the Proposer in providing the services that the District should be aware of in evaluating its RFP response to this RFP. The project approach shall clearly demonstrate the Proposer Team’s proposal to meet the challenges these two projects pose. It shall address project understanding, including the approach to enforcing the construction requirements, providing effective work documentation, and ensuring compliance with occupied building constraints and limitations.

4. **Sustainability Statement:** Contractors shall submit a statement regarding any sustainable, environmental or socially responsible initiatives or practices that they or their suppliers engage in. This information can be in relation to the specific services or work products solicited via this RFP, or in relation to the manufacture, delivery, or business practices of your firm.
5. **References:**
- (a) Proposers must use the templates in the “References” section of this Exhibit A – RFP Response Packet to provide references.
 - (b) References should have similar scope, volume, and requirements to those outlined in these specifications, terms, and conditions.
 - Proposers must verify the contact information for all references provided is current and valid.
 - Proposers are strongly encouraged to notify all references that the District may be contacting them to obtain a reference.
 - (c) The District may contact some or all of the references provided in order to determine Proposer’s performance record on work similar to that described in this RFP. The District reserves the right to contact references other than those provided in the RFP response and to use the information gained from them in the evaluation process.
6. **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.**
7. **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 Occupied Facility Construction Management and Inspection Services

RFP# 566 24-03

Proposer Name: _____

Proposer must provide a minimum of five (5) 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 Occupied Facility Construction Management and Inspection Services

RFP# 566 24-03

Proposer Name: _____

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

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

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

*Print additional pages as necessary



CONTRACT EQUITY PROGRAM & EQUAL EMPLOYMENT OPPORTUNITY

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

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

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

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

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

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

The CEP guidelines and forms can be 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

SCOPE OF SERVICES

EXHIBIT B

Scope of Services

OVERVIEW

EBMUD is seeking construction management and inspection services for two separate projects at DISTRICT-occupied facilities in Oakland, CA. Each project will be advertised for construction separately.

One project is the Administration Building (AB) Fiber Optic Backbone Replacement project, located at the DISTRICT's main Administration Building at 375-11th Street, Oakland, CA. The construction for the AB Fiber Optic Backbone Replacement project is anticipated to be advertised in June 2024, with construction expected to begin in October 2024 and continuing for approximately 12 months. The estimated construction cost for the project is \$650,000.

The second project is the Adeline Maintenance Center (AMC) Administration Building (AB) Heating, Ventilation and Cooling (HVAC) Replacement project, located at the administration building at the AMC campus at 1100 21st Street, Oakland, CA. The construction for the AMC AB HVAC Replacement project is anticipated to be advertised in February 2025, with construction expected to begin in April 2025 and continuing for approximately 18 months. The estimated construction cost for the project is \$3,500,000.

Project 1 – AB Fiber Optic Backbone Replacement

The project includes:

- Install new 48-strand single mode fiber cables at the following locations:
 - between the data center on the 3rd floor and each cable closet from the 1st floor through the 9th floor;
 - between the data center on the 3rd floor and the radio room on the 9th floor;
 - between the data center on the 3rd floor and the Help Desk; and
 - between the data center on the 3rd floor and Room 354 (MpoE for AT&T).
- Provide new cable termination panels at each cable closet.
- Provide new panels in the existing cable cabinet at the data center. Existing location of cabinet to remain where it is.

Project 2 – AMC AB HVAC Replacement

The project includes:

- Replace the existing 115-ton “boxcar” packaged rooftop unit with a 100-ton built-up air handler located inside the existing penthouse. This work shall be phased to maintain heating, cooling, and ventilation to the building except for after-hours shutdowns.
- Eliminate the return booster fan that pulls return from the first floor. Install a new larger return path to allow the AHU to pull return from the first floor.
- Create three independently-controlled building pressure zones. Zone 1 includes the main/entrance lobby and connected two-story atrium. Zone 2 is the entire first floor except Zone 1. Zone 3 is the entire second floor except Zone 1.
- Add a building pressure relief return duct for pressure Zone 1.
- Replace the 1650 MBH boiler and heating hot water pumps with a new boiler skid consisting of two (2) 750 MBH boilers, two (2) primary pumps, two (2) secondary pumps, an expansion tank, air separator, and heating hot water system controller.
- Replace all pneumatic controls with DDC.
- Reuse the existing VAV boxes and reheat coils unless noted otherwise.
- Provide new distribution board in the penthouse to support new HVAC equipment.
- Provide power for the new HVAC equipment in the penthouse and on the roof, and new VAV controls throughout the building.

Each project has been designed by a consultant. Commissioning support and engineering design services during construction are being provided by the DISTRICT’s design team for the project. The PROPOSER selected under this RFP will be excluded from bidding on the construction contract.

Draft plans for each project are available for viewing with an appointment via the DISTRICT contact. PROPOSERS are highly encouraged to review the plans to understand the construction scope of work. Photocopies will not be allowed for security reasons.

Work to be performed under this RFP is a “public work” as defined by section 1720 of the California Labor Code.

The PROPOSER shall provide construction management and inspection services including but not limited to: construction administration and change management; construction inspection including electrical, mechanical, and structural inspections; project controls; environmental surveys and compliance monitoring; testing, startup, and commissioning monitoring; construction safety inspection; and technical data entry and document control including engineering archives, as-built drawings, and daily field notes.

The DISTRICT uses the web-based KAHUA project management system which the PROPOSER must also use.

The PROPOSER will have overall responsibility for successful project implementation, compliance with DISTRICT standards and procedures, and meeting schedule and budget goals for the project. PROPOSER will also be responsible for monitoring construction contractor compliance with the Contract Documents and DISTRICT procedures. Relevant DISTRICT procedures and template documents will be provided to the PROPOSER as part of contract award but are summarized in this Exhibit. The PROPOSER will provide fully qualified and highly experienced construction management and inspection personnel to manage and inspect construction of the two projects listed in this RFP.

DISTRICT Roles and Responsibilities

General: DISTRICT shall be responsible for all legally binding communications with the Contractor and permitting agencies, and for final approval of all progress payments, change orders, etc.

DISTRICT basic duties include:

1. Conduct pre-bid and preconstruction meetings.
2. Issue Notice of Award letter to Contractor.
3. Issue Notice to Proceed letter to Contractor.
4. Issue Notice to Commence Field Work.
5. Approve baseline schedule submittal.
6. Issue and/or review and approve all outgoing correspondence to Contractors.
7. Attend periodic construction progress meetings with PROPOSER and Contractor as required.
8. Final review and issuance of monthly progress payments to Contractor.

9. Coordinate activities of other DISTRICT personnel as required (inter-section, Division, and project).
10. Receive status updates and documentation from PROPOSER on:
 - a. Submittal review process
 - b. Change Order Request (COR)/ Change Order (CO) issuance and resolution
 - c. Schedule review and analysis
 - d. Claims negotiation and resolution
 - e. Field inspection oversight
 - f. Progress payment preparation and issuance
 - g. Contract proposal administration
11. Final approval of all change orders and claims.
12. Brief management on critical construction progress, cost, and scope issues.
13. Issue Contract Acceptance Notice when Contractor has completed all work.
14. Approve Final Report for each project.
15. Review and issue final payment to Contractor.

PROPOSER Roles and Responsibilities

General: PROPOSER shall have primary responsibility for all administrative and field coordination with Contractor with the exception of those items listed above under DISTRICT Roles and Responsibilities.

PROPOSER basic duties include:

1. Monitor and control the PROPOSER Construction Management dollars being expended.
2. Review the contract documents for potential administration and construction problems (constructability review), and attend the 90% design review meeting, if held, and mark their comments in Bluebeam software on the project drawings and specifications.
3. Attend pre-bid and preconstruction meetings.
4. Ensure that necessary contract documentation has been submitted prior to authorizing work on project.
5. Serve as primary contact with Contractor's engineering and construction staff.
6. Schedule Review
 - a. Review initial schedule to ensure viability of construction sequence and conformance with contract document requirements.
 - b. Prepare and/or review monthly schedule updates by activity to determine progress.
7. Lead weekly construction progress meetings with Contractor and include DISTRICT in the meetings. Prepare and issue progress meeting agendas and minutes. Maintain meeting minutes. Distribute minutes to all stakeholders, including DISTRICT.
8. Prepare weekly construction progress reports and submit to DISTRICT.
9. Ensure all contract submittals are processed, reviewed, and returned to the Contractor in a timely manner.
10. Review and recommend to DISTRICT monthly progress payments for payment to the Contractor.
11. Draft for DISTRICT review all outgoing correspondence to contractors on assigned projects.
12. Brief DISTRICT staff on critical construction progress, cost, and scope issues.
13. Prepare draft emails of any tenant outreach updates for the DISTRICT's review and distribution.
14. Coordinate daily construction engineering, administration, inspection, and testing activities.
15. Ensure compliance with contract documents and monitor quality of construction.

16. Review drawings submitted by Contractors for conformance with specifications and standard drawings.
17. Ensure that inspections are done in a timely manner.
18. Maintain effective working relationships with Contractors, city and county inspectors, DISTRICT personnel, and other agencies.
19. Provide coordination with outside agencies (e.g., permit inspections).
20. Maintain project files.
21. Maintain annotated electronic photo log.
22. Negotiate and recommend all change orders and claims to DISTRICT.
23. Inspect all work performed and materials furnished.
24. Prepare Daily Diary and Inspection Reports.
25. Monitor quality and progress of construction. Prepare deficiency memos in the event of non-complying work.
26. Provide necessary interpretations.
27. Ensure the maintenance of accurate and complete documentation of project activities including a daily inspection report and field files.
28. Inform the Contractor of nonconformance with the DISTRICT specifications and drawings observed during inspection.
29. Recognize deficiencies in materials and workmanship.
30. Reject defective materials or work when not in compliance with the DISTRICT specifications and drawings. Prepare deficiency memos.
31. Approve and accept those portions of the work that have been installed in conformance with the DISTRICT specifications and drawings.
32. Resolve field problems and assist with the preparation of change order packages.
33. Review certified payroll and conduct field spot checks of Contractor employees.
34. Submittal Review
 - a. Review and make recommendation on approval, process all submittals on assigned projects.
 - b. Maintain submittal log and tracking system.
35. Change Order Request (COR)/Change Order (CO) Resolution
 - a. Review COR/CO justification and Contractor quotations.
 - b. Prepare independent estimate for COR/CO.
 - c. Negotiate with Contractor.
 - d. Prepare COR/COs and intra-DISTRICT information for DISTRICT approval.
 - e. Maintain complete COR/CO files until COR/CO is negotiated.
 - f. Maintain COR/CO logs.
36. Claims Mitigation & Resolution
 - a. Identify and notify DISTRICT of all potential claims.
 - b. Prepare an analysis of claim and forward documentation on claim to DISTRICT.
37. Request for Information (RFI) Review

- a. Process all RFIs on assigned projects.
 - b. Maintain RFI logs and files.
38. Provide status updates and documentation from PROPOSER personnel on:
- a. Submittal review process
 - b. COR/CO issuance and resolution
 - c. Schedule review and analysis
 - d. Claims negotiation and resolution
 - e. Field inspection oversight
 - f. Progress payment preparation and issuance
 - g. Contract proposal administration
39. Prepare punchlists.
40. Maintain field notes and monitor preparation of as-built drawings by the Contractor.
41. Ensure that as-built drawings are maintained and provided to DISTRICT.
42. Lead coordination of Operations & Maintenance (O&M) personnel's training during startup.
43. Ensure closed contract files are forwarded to DISTRICT at completion of project.
44. Prepare the Final Report and submit to DISTRICT.

The information below further describes the PROPOSER's scope of work in the following areas:

- A. Maintenance of Contract Records;
- B. KAHUA Document Management Software;
- C. Submittals;
- D. Construction Progress Schedule;
- E. Progress Meetings;
- F. Schedule of Costs;
- G. Change Orders/Extra Work;
- H. Payments to Contractors;
- I. Monitoring Subcontractor/Supplier Utilization;
- J. Materials/Equipment Substitutions;
- K. Requests for Information/Design Clarifications;
- L. Delays and Extensions of Time;
- M. Required Field Records and Files;
- N. Monthly Project Schedule Review;
- O. Certified Payroll Review;
- P. Requests for Plant Inspection Support;
- Q. Requests for Survey Support;
- R. Hazardous Material/Project Safety Requirements;
- S. Jobsite Safety/Accident Reporting;

- T. Emergency Contacts;
- U. Lock Out/Tag Out of DISTRICT Facilities;
- V. Equipment Testing – Factory, Functional, and Performance;
- W. Defective Work;
- X. Facility Control System Functional Testing and Startup;
- Y. Punchlist;
- Z. Final Inspection; and
- AA. Final Project Report.

A. Maintenance of Contract Records

The primary repository for construction documents between the DISTRICT and the Contractor is the KAHUA system. Emails shall not be used for formal communications with the Contractor or formal documentation of contractual decisions. All such communication should be confirmed in KAHUA.

B. KAHUA Document Management Software

KAHUA is a web-based document management system software designed to organize, track, and share project-related documentation. The DISTRICT uses this program on all contract construction projects for cost management, document control, and reporting.

1) Procedure

The DISTRICT's KAHUA Administrator will be responsible for opening the new projects and for providing authorization to access the KAHUA server. The PROPOSER must use the KAHUA system.

After the Contractor's Schedule of Costs has been approved, the Contractor inputs all payment items and associated cost information into the KAHUA Finance tab. Once this task is complete, progress payment invoices, change orders, and change order requests can be generated from the KAHUA Finance tab in the DISTRICT standard format using the program's custom report features.

KAHUA is used to receive, review, comment, and respond to submittals and RFIs as well as to generate Daily Inspection Reports, memos, meeting agendas and minutes, and other forms of project documentation.

C. Submittals

All submittals shall be processed electronically through the KAHUA system.

The Contractor is required to submit a Schedule of Submittals usually within fifteen (15) days after receipt of a Notice to Proceed letter. The Contractor is required to identify and list on the Schedule of Submittals all required submittals along with the Contractor's planned submittal dates. The intent of the Schedule of Submittals is to ensure that the Contractor is aware of the submittal requirements and to have the ability to track when submittals are required. The submittal log must be approved prior to making the initial progress payment. The PROPOSER is responsible for reviewing and recommending to the DISTRICT approval of the Schedule of Submittals.

The PROPOSER should review the Schedule of Submittals every two to four weeks. The focus of the review should be to ensure that submittals will be provided prior to the start date of the phase of work for which the submittal is required. The Submittal Log should be regularly updated and discussed with the Contractor during project status update meetings. When necessary, delinquent submittals should be identified, and the Contractor should be notified via a transmittal memo of the specific delinquent submittals and the potential impact on the project schedule.

At some point near the Notice to Proceed, the PROPOSER should discuss with the DISTRICT to determine who will be responsible for reviewing which types of submittals. The PROPOSER coordinates the submittal distribution, consolidates review comments, and returns to the Contractor all submittals. Contract specifications require the Contractor to submit construction schedule updates, progress payment requests, certified payroll reports, and Sub-Contractor Utilization Report updates at the end of every month. No progress payments will be processed unless these submittals are received.

The target review duration for PROPOSER shall not exceed fourteen (14) workdays.

D. Construction Progress Schedule

The Contractor is responsible for preparing an initial (baseline) cost loaded construction progress schedule. The schedule format (i.e., critical path methodology or bar chart) and contents shall be as specified in the contract documents. The PROPOSER is responsible for review, comment, and recommendation to the DISTRICT on acceptance of the initial construction progress schedule. If the initial schedule does not comply with the contract requirements, it is returned to the Contractor to be revised and returned. The initial progress payment **will not** be made prior to approval of the baseline progress schedule by the DISTRICT.

Updated progress schedules are due monthly on or before the 25th day of each month and are also reviewed by the PROPOSER. PROPOSER shall confirm that the percentage of work performed indicated in the schedule is correct. PROPOSER shall ensure that all actual start and completion dates indicated in the schedule are correct and that any logical changes made have been explicitly identified and are reasonable. The primary review requirement is to confirm that the Contractor is on schedule to finish all remaining work activities on or before the required milestone dates. If the Contractor is behind schedule or showing a late finish date, it must submit a written statement on how it will get back on schedule. The updated schedule is returned to the Contractor by transmittal as Receipt Acknowledged if there are minor corrections or comments and Revise and Resubmit if there are critical flaws that must be corrected.

E. Progress Meetings

The frequency of the meetings is usually agreed upon with the Contractor during the first meeting. The PROPOSER sends out meeting notifications and prepares and circulates an agenda prior to each meeting. Progress meeting invitees include the PROPOSER team, the DISTRICT project manager for construction, the Contractor's project representative, and the superintendent. Optional attendees include other DISTRICT personnel and representatives of major subcontractors as required by the Contractor or requested by the DISTRICT. The PROPOSER is responsible for conducting all meetings. The Contractor is required to provide a three-week look ahead schedule at these meetings.

Other special meetings are held as required by the project specifications or as requested by either the Contractor, the DISTRICT, or the PROPOSER. Special meetings typically include submittal review, pre-start-up, and outage meetings.

The PROPOSER is responsible for preparing meeting minutes. The notes are reviewed by the DISTRICT Engineer before distribution. Meeting notes should be distributed within three (3) working days after the meeting is held.

F. Schedule of Costs

Preparation and submittal of the Schedule of Costs is the responsibility of the Contractor. Project specifications generally require that the Schedule of Costs be submitted within ten (10) working days after Notice to Proceed. Initial review, comment, and recommendation on acceptance is performed by the PROPOSER. Final review and approval are performed by the DISTRICT.

The Schedule of Costs submittal review should look to see if costs have been distributed appropriately amongst all schedule activities. The review should also ensure that the mobilization cost is appropriate. Other areas to look closely at include unbalancing and front-end loading.

Initial progress payment will not be made until the Schedule of Costs, amongst other items, is approved. The Contractor enters information from the approved Schedule of Costs into the project's KAHUA web-based construction management software file. The program is then used to generate all payment invoices.

G. Change Orders/Extra Work

All final approvals of change orders/extra work are by the DISTRICT.

A Change Order Request (COR) is usually the first step in preparation of a CO. A COR can be initiated by the Contractor via a Contractor Request for Change (CRFC) or the DISTRICT. If the proposed change is a scope or design change, the PROPOSER may be requested to approve the Contractor's request or, if PROPOSER initiated, prepare a COR memo authorizing the change, quantifying the estimated additional cost, and identifying the estimated schedule impact. The Contractor will provide a change proposal, which should include a detailed cost breakdown of the labor, equipment, material, and any markups associated with accomplishing the work along with identification of schedule impacts and required time extension. The preferred method for payment for the extra work is by an engineer's adjustment (negotiated lump sum agreement). However, the force account payment method (time and materials) can also be used. Force account is used to mitigate potential schedule impacts and/or when the scope of work is hard to quantify in advance (e.g., hazardous waste removal, over excavating poor soil). ALL Force Account work directives shall include a maximum amount limitation.

The PROPOSER reviews or prepares the COR and negotiates an agreement with the Contractor. The PROPOSER is also responsible for preparing and processing the CO utilizing the KAHUA web-based construction management software. The basic components of a CO package are:

- 1) A completed DISTRICT standard Contract Change Order form;
- 2) An Intra-DISTRICT Information (IDI) sheet;
- 3) Contractor's change proposal identifying cost and time impacts;
- 4) A COR; and
- 5) Any additional information such as correspondence and record of negotiation.

The first statement in the change order should be “This change is a product of negotiation” to indicate that agreement was reached with the Contractor. If no agreement was reached, a unilateral change may be issued, but only after consultation with the DISTRICT. The “Description” portion of the CO should reference specification sections and the specific document (such as a COR) that best describes the scope of the changed work.

The IDI provides a brief history of the change and an explanation of why the change is needed. It classifies the CO into one of the following categories:

- **Differing Site Condition** Change resulting from unanticipated site conditions.
- **Design Error or Omission** Change resulting from avoidable error or omission in the contract documents.
- **Value Added** Design change, value engineering proposal, safety enhancement, or other work that adds value or minimizes exposure to claim. A subcategory for regulatory/environmental issues may be used.
- **Discretionary** Additional work beyond the originally scoped project goals.
- **Claim Settlement** A final settlement to resolve claims.
- **Weather Delay** Time extension due to inclement weather.

The IDI also identifies the CO amount, total CO expenditures to date, CO time extension, and total time extension to date. Time extensions must be in calendar days.

The PROPOSER is responsible for monitoring the amount of all COs as a percentage of the bid amount and reporting this to the DISTRICT. The PROPOSER shall consult with the DISTRICT contact on the categorization of COs.

H. Payments to Contractors

The PROPOSER makes an approximate measurement (using the approved Schedule of Costs or prior month approved progress payment, whichever is most recent) of all approved materials delivered to the jobsite and work performed from the 26th calendar day of the last month through the 25th calendar day of the month. This information is reviewed and agreed upon with the Contractor’s superintendent. The Contractor enters this information using the pay estimate module in KAHUA. The PROPOSER reviews the invoice detail and approves if the invoice is as agreed to earlier. If necessary because of errors, the PROPOSER will request that the Contractor adjust the invoice. The progress

payment will not be processed until the monthly project schedule update, Subcontractor Payment Report (P-047), and certified payroll records are received.

The PROPOSER is responsible for printing the invoice detail, progress payment transmittal, and progress payment summary sheets utilizing the pay estimate module in KAHUA. After reviewing and approving these documents, the PROPOSER provides the documents to the DISTRICT no later than the second to last day of the month for further review, processing, and payment.

A progress payment package is prepared at the end of every month from Notice to Proceed until Contract Acceptance for each project. If there is no payment forthcoming for a particular month, a zero-payment package is prepared with a “no payment” watermark, and the reason should be noted in the “Remarks” section of the summary sheet.

I. Monitoring Subcontractor/Supplier Utilization

The DISTRICT provides an electronic copy of Form P-047, Subcontract Payment Report, to the Contractor at the preconstruction conference and reviews the DISTRICT Contract Equity Program (CEP) reporting requirements as documented in the Minority/ Women Business Enterprise/ Equal Employment Opportunity (M/WBE/EEO) Guidelines included in the specifications.

On a monthly basis, the Contractor is required to submit as part of its Progress Payment application a completed and signed Subcontractor Payment Report Form P-047 and an electronic copy of the form. This submittal is a requirement for receipt of the monthly progress payment. The report is to include a narrative summary, if required, identifying reason(s) for any change in projected total payments to any subcontractors.

The PROPOSER reviews Form P-047, Subcontractor Payment Report, for completeness and reviews this information with the field inspector to verify usage of subcontractors. Substitution of subcontractors/suppliers identified in the Form P-047 is acceptable in certain situations but must be approved in advance by the DISTRICT.

Any deviations from the information contained in the original report are noted on the P-047. If no apparent deviations are identified, the PROPOSER acknowledges receipt of the subcontractor’s Payment Report. If an apparent unaccountable deviation is identified, the PROPOSER notifies the DISTRICT and the Contractor and requests an explanation of the deviation.

The PROPOSER attaches Form P-047 to the Monthly Progress Payment and forwards them to the DISTRICT.

J. Materials/Equipment Substitutions

The Contractor submits a proposal for substitution of materials and/or equipment with the necessary documentation to the PROPOSER to demonstrate that the proposed material and/or equipment meets or exceeds the requirements of the specified products. The Contractor's proposal should also warrant that the substitution will be compatible with other elements of the work and that the Contractor will bear all responsibility for making the substitution work and shall accept full responsibility for any additional cost or delays necessitated by the proposed substitution. The PROPOSER provides the information to the DISTRICT to review the proposal and accept or reject the material substitution. The proposal is returned by the DISTRICT to the PROPOSER who in turn returns it to the Contractor approved, approved as noted, or rejected. Where the substitution is approved, the approval should note that the Contractor will bear all responsibility for making the substitution work and shall accept full responsibility for any additional cost or delays necessitated by the proposed substitution. In instances where the substitution could result in a substantial cost savings, processing of a change order should be considered.

K. Requests for Information (RFI)/Design Clarifications (DC)

RFIs shall be sent to the PROPOSER by the Contractor using the KAHUA web-based construction management software. It is the PROPOSER's responsibility to gather the required information from the project engineer, or others and respond by transmittal or letter to the Contractor utilizing the KAHUA software. Similarly, DCs are tracked and sent to the Contractor by the PROPOSER utilizing the KAHUA software. The PROPOSER shall make every effort to respond to the contractor's RFI within five (5) business days. In processing RFIs and DCs, the PROPOSER needs to determine whether or not there will be any associated additional costs or delays. If this is the case, then a change order request should be processed before authorizing the Contractor to proceed.

L. Delays and Extensions of Time

All requests for delays and extensions of time shall be submitted to the PROPOSER. The PROPOSER will investigate the facts and ascertain the extent of the delay and transmit the findings to the DISTRICT who in turn will transmit the information to the Contractor through a letter. If a time extension is agreed upon between the DISTRICT and the Contractor, the PROPOSER shall prepare a change order extending the contract period and transmit it to the DISTRICT for review and approval. If the Contractor does not agree

with the DISTRICT's decision regarding delays and extensions of time, the Contractor may dispute such decision in accordance with contract procedures for "Disputes and Claims".

It is standard practice to ask the Contractor at every project status update meeting if any delays were experienced. If a critical delay is identified, the Contractor is asked to explain the cause and the extent of the delay and the party responsible. Details of the conversation must be recorded by the PROPOSER in the meeting minutes. If a DISTRICT-caused delay is noted, the Contractor is instructed to submit details in writing in accordance with contract requirements. In cases where the Contractor identifies a potential delay, the PROPOSER shall provide additional detail on the impacted work as part of the Daily Inspection Report.

M. Required Field Records and Files

The PROPOSER shall maintain a daily inspection report (DIR), take photos, and verify documentation of as-built conditions on a set of the contract documents updated by the Contractor as necessary to fully document the construction project.

Required Documentation:

- Daily Inspection Reports (DIR)
- As-Built
- Photos

Requirements of the Construction Inspection Daily Reports (DIR):

- The DIR is the principal written chronological record of activity on the job. Entries should be clear, concise, and explicit. Only those abbreviations that are common within the DISTRICT shall be used.
- The DIR shall be generated and kept by the inspector on KAHUA.
- The first page(s) of each construction contract project daily report lists important job information. This includes the specification number, job title, job location, job numbers, contractors' names, subcontractors' names, addresses, telephone numbers, names of key contractor/subcontractor personnel, names of key DISTRICT personnel, and important dates.
- An entry is made every workday from issuance of the Notice to Commence Field Work through contract acceptance. This includes days during which events and/or discussions have occurred pertaining to that contract.

- The inspector’s supervisor shall review the DIR by the end of the following workday and make any necessary corrections or additions.
- Daily entries should include, where applicable and/or pertinent:
 - Date, including day of the week.
 - Weather (morning and afternoon).
 - Job site conditions.
 - Work force:
 - Contractor and subcontractors, including equipment on the job.
 - DISTRICT staff, including other inspectors.
 - Work done or attempted, including material or equipment deliveries and removals. All discussions and directives to the Contractor relating to the job.
 - A summary of information from other diaries, daily reports, or job records.
 - Visitors to jobsite.

Requirements for As-Built Drawings:

Complete as-built procedures and Contractor responsibilities are provided in DISTRICT’s standard Specification 01 78 39. In summary, the Contractor is responsible for preparing the As-Built Drawings, and the PROPOSER is responsible for ensuring the Contractor is doing so. Further clarification and detail are provided below:

- The Contractor shall maintain up-to-date changes to the record documents continuously as the work progresses. The Contractor shall annotate the documents to reflect all changes made or encountered during construction. The Contract Documents will be provided in Portable Document Format (PDF), and all annotations and notes shall be made directly to the PDF documents using Bluebeam per this specification. The Contractor shall work using a live web-based Bluebeam hosted session that can be accessed simultaneously by the Contractor, subcontractors, the PROPOSER, and the DISTRICT. This session shall be hosted for the duration of the project and shall replace the traditional hard-copy drawings used for as-built recording. The PROPOSER shall ensure that the Bluebeam session is set up correctly and verify and approve the Contract Documents updated throughout the construction based on the as-built conditions.
- Supplementary documents generated during the course of construction, either by the DISTRICT, PROPOSER, or Contractor, shall also be in PDF format. The Contractor shall coordinate with the PROPOSER and DISTRICT Engineer regarding file management, naming conventions, and coordination of attachments. The Contractor shall designate a single person (plus a backup) to be responsible for record document management who shall be the liaison to the PROPOSER

regarding record drawings and file management. The PROPOSER shall coordinate with the Contractor regarding the record drawings and file management.

- The PROPOSER shall arrange a 4-hour Bluebeam training session on DISTRICT standards, color and naming conventions, timing, and approval process. Attendees shall include the Contractor's project manager, project trade superintendents, and designated as-built coordinator, at a minimum. All parties responsible for generation and maintenance of the Contractor's as-built drawings shall attend the training.
- The Contractor shall clearly include the as-built preparation activities as part of the CPM construction schedule. The PROPOSER shall monitor that the CPM schedule reflects the as-built preparation activities.
- The Contractor shall use Bluebeam Revu to maintain a shared log of as-builts. The Contractor shall bring a copy of each Change Order Request, Contractor Request for Change, Request for Information, Design Clarification, and major submittals to the weekly progress meetings. The PROPOSER shall review and approve or reject the as-built logs.
- The PROPOSER shall provide the approved as-built documents to the DISTRICT for final approval and filing after each monthly review meeting with the Contractor.

Requirements of the Job Photographs:

Job photographs shall be taken by the PROPOSER. They fall into two basic categories:

- **Preconstruction Photographs:** Preconstruction photographs show conditions before work starts and are intended to prevent unwarranted claims or allegations against the DISTRICT. They shall be taken on both contract construction projects listed in this RFP.
- **Job Progress/Status Photographs:** Job progress/status photographs complement the daily report. These photographs shall be taken during the course of the job and provide a visual record that emphasizes points covered by the daily report, in addition to covering the general progress and quality of the work. Pertinent photographs shall be inserted into the electronic daily report. Extra photographs shall be stored electronically in a folder under the specification number. A minimum of one job photograph shall be taken for each day of the project and included in the electronic daily report.
- All photographs shall be taken with digital cameras that time/date stamp the photographs.

N. Monthly Project Schedule Review

The Contractor is required to submit a monthly construction schedule revision per the DISTRICT's standard Specification Section 01 32 00 or 01 32 01. The schedule should demonstrate that the Contractor understands the scope of work and provide a reasonable plan for how the Contractor will complete all work within the allowable time.

Updated schedules shall be submitted by the Contractor and reviewed on a monthly basis by the PROPOSER for compliance with the contract specifications. The review should include confirmation of actual start/finish dates and % progress to date, revised projections of progress and completion, identification of problem areas or delays, and major changes in scope. The PROPOSER shall inform the DISTRICT of the results of the schedule submittal review prior to sending comments sent to the Contractor. Schedule updates should also be reviewed in detail during the monthly project status update meeting.

O. Certified Payroll Review

The Contractor is required, per Article 12 of the DISTRICT's General Conditions and Sections 01 29 00 and 01 31 23.15 of the DISTRICT's standard Specifications General Conditions, to submit certified payroll records using LCPtracker and also submit in KAHUA by the 25th of each month for all labor provided on the project from the previous month. Failure to submit this information will result in no progress payment for the month. The PROPOSER will verify that the certified and signed payroll reports have been received by the 25th.

The PROPOSER will pick a random day each month to interview contractor workers and document the type of work and the wage classification under which the workers were being paid. This information will be documented in the daily inspection report. When the certified payroll is submitted via LCPtracker at a later date, the PROPOSER will check that the individuals interviewed were paid under the correct wage classification according to what the PROPOSER documented on that day.

If the certified payrolls are not in conformance with the work performed, PROPOSER will notify the DISTRICT who will review the information. The DISTRICT will notify the Contractor in writing and request clarification of the discrepancy and lead any discussion with the Contractor to clarify the discrepancy. If the discrepancy cannot be resolved, the DISTRICT will notify the DIR of the discrepancy.

If no discrepancies are noted or if the discrepancies are resolved, the Certified Payroll Review form is signed by the PROPOSER and filed.

The PROPOSER does not have to review the certified payroll to ensure the correct prevailing wages were paid to the employees. By using LCPtracker, the wages paid to the employees are automatically checked and the certified payroll cannot be submitted via LCPtracker until all payment errors are corrected.

P. Requests for Plant Inspection Support

Background

The DISTRICT's Plant Inspection Section personnel provide quality assurance inspection of specialized elements of a project for which on-site inspection or testing is either impossible or impractical. Inspection is accomplished at the fabricating plant. Examples of such products are:

- Precast concrete
- Fabricated metal
- Valves and pumps
- Pipe fabrication
- Manufactured equipment
- Concrete batch plant
- Shop applied coating

DISTRICT Plant Inspection personnel may also provide the following onsite inspection support:

- Coating application
- Welding inspection

Procedure

The PROPOSER shall prepare a list of all Plant Inspection support needs, based on the project specifications, prior to the beginning of work at the project site and instruct the Contractor to schedule upcoming shop inspections on KAHUA, the Contractor then calls DISTRICT Plant Inspection to solidify the dates and times of the inspections. Contract documents should detail all of the materials that need to be inspected by Plant Inspection. Additional Plant Inspection support needed shall be generated by the PROPOSER based on the work involved for the particular project. For all Plant Inspection work needed, the PROPOSER is to verify that the Contractor has entered the required shop inspections in KAHUA, and with Plant Inspection that they have been notified. Plant

Inspection support should be an ongoing topic at all progress meetings to ensure plant inspections are performed on required items.

Q. Requests for Survey Support

Per the contract documents, the Contractor is to inform the DISTRICT/PROPOSER three (3) full working days in advance of the times and places at which they intend to work in order that lines and grades may be furnished. Upon notice from the Contractor, the PROPOSER shall notify the DISTRICT who shall prepare a Survey Request Form for a survey crew to perform the Contractor-requested survey work. The PROPOSER makes sure that the Contractor's request is specific as to the required survey.

R. Hazardous Material/Project Safety Requirements

A known or potentially hazardous material/condition that exists on a jobsite will typically be documented in the contract specifications. After Notice To Proceed, the Contractor will be required to submit the following as specified: Project Safety & Health Plan (See Spec Section 01 35 24), Excavation Safety Plan (01 35 24), Confined Space Operating Procedures (01 35 24), Fall Protection Procedures (01 35 24), Construction and Demolition Waste Disposal Plan (01 35 44), Water Control and Disposal Plan (01 35 44), Spill Prevention and Response Plan (01 35 44), Material Safety Data (MSDS) Sheets, and Laboratory Test Results. The DISTRICT will discuss the necessary procedures to be taken based upon the anticipated hazardous material/conditions at the preconstruction meeting held with the Contractor and key DISTRICT and outside personnel involved with the project.

In the case of an environmental emergency, PROPOSER shall contact staff in the Regulatory Compliance Office (RCO) during regular business hours. For afterhours environmental emergency or employee injury, contact the RCO Emergency Standby Personnel. Immediate follow-up notifications shall be made to the DISTRICT Engineer. PROPOSER shall have a copy of the RCO Field Operations Guide as a general reference available at their jobsite at all times. The booklet contains useful information on safety procedures and what to do in the event of an emergency.

The PROPOSER will verify that the Contractor has an approved health and safety plan submitted, that the Contractor is following it, and that a copy of the plan is available at the site.

All communications with regulatory agencies that are involved in a project to monitor compliance with environmental/safety regulations must be through a DISTRICT representative.

S. Jobsite Safety/Accident Reporting

The PROPOSER shall confirm that PROPOSER personnel working on the jobsite have the minimum required safety training for the assigned project, which may include but is not limited to the following training:

- Confined Space
- Respirator Protection
- CPR/First Aid
- Hearing Conservation
- Traffic Safety
- Infection Control (sewer work)
- HAZWOPER
- Hazmat
- Elevated Locations
- Competent Person
- Electrical Safety
- Street Awareness

The PROPOSER shall:

- Verify the presence of trained “Competent Person” personnel on the jobsite at all times with full authority to act on behalf of the Contractor.
- Bring to the Contractor’s attention unsafe physical conditions at the jobsite which become apparent (e.g., soil characteristics, traffic control, conflicting utilities, etc.) and request that they be immediately remediated.
- Bring to the Contractor’s attention any unsafe work practices which become apparent (e.g., shoring, fall protection, personal safety gear, safety equipment, etc.).
- Document potential problems and violations using photographs and field memos to the Contractor.
- Immediately notify the Contractor verbally and in writing and their immediate supervisor in the event of non-conformance with applicable safety guidelines.
- Immediately instruct the personnel in the event of a safety violation that poses an imminent health and/or safety threat to jobsite personnel to leave the imminent hazard area and immediately notify the Contractor verbally and in writing and request immediate remediation of the hazard. The PROPOSER shall also immediately notify the Regulatory Compliance Office (RCO) and DISTRICT Engineer. If warranted, the RCO will notify the appropriate safety and/or environmental regulatory agencies.
- Report all injuries of Contractor and noncontractor personnel to the DISTRICT Engineer and document such incidents in accordance with the DISTRICT’s

standard procedures as well as in the field diary. A copy of the injury report form shall be sent by the DISTRICT Engineer.

- Immediately report injuries of DISTRICT personnel to the DISTRICT Engineer. Such incidents should also be documented in the PROPOSER's field diary.

T. Emergency Contacts

Article 6.1.1 of the DISTRICT's standard General Conditions states: "The Contractor shall be solely and completely responsible for conditions of the jobsite, including safety of all persons and property, during the performance of the work. This requirement will apply continuously and will not be limited to normal working hours."

Article 6.4.2 states: "Whenever there arises outside of regular working hours an emergency from the work involving water/wastewater service to the public or danger to the public safety, the Contractor shall be notified of the emergency." The Contractor is also required to respond to environmental emergencies caused by their work.

The Contractor is responsible for providing current phone numbers of emergency response personnel available 24 hours a day to the DISTRICT. The DISTRICT will provide this information to the PROPOSER. The PROPOSER will provide an emergency contact list with the PROPOSER's team's contacts to the DISTRICT.

The PROPOSER is responsible to check with the Contractor before weekends and holidays to ensure the Contractor's contact person or persons will be available to respond to emergencies. If the contact person changes, the PROPOSER must inform the DISTRICT.

U. Lock Out/Tag Out (LOTO) of DISTRICT Facilities

The contract specifications usually outline any required outages of DISTRICT facilities to facilitate the work required by the contract. The outage could involve one DISTRICT work group or multiple work groups. It is the responsibility of the PROPOSER to coordinate the work between the Contractor and the DISTRICT. To facilitate the coordination of the various DISTRICT work groups and the Contractor, the following procedure will be followed.

- A minimum of 3 weeks (or as designated in the specs) prior to the scheduled outage, the Contractor submits a System Outage Request (SOR) to the PROPOSER on the form provided in the specs. If a form is not included in the specs, then one will be provided to the Contractor. The SOR includes the Contractor's LOTO plan.

- The PROPOSER distributes the SOR to the DISTRICT's construction project manager who will distribute it to the affected facility's Plant Supervisor and Health & Safety for review.
- At least 2 weeks prior to the outage (or as directed in the specification), the PROPOSER will call a meeting with representatives from all parties associated with the outage from the DISTRICT and the Contractor to review and comment on the outage plan developed by the Contractor. The purpose of this meeting is to clarify all issues the Contractor or the DISTRICT have regarding the outage and discuss the sequence of events to establish the outage. Note: It is the Contractor's responsibility, not the DISTRICT's or the PROPOSER's, to protect all personnel at the site, and as such, the Contractor must be involved in the planning of the outage. The Contractor will follow their site safety plan while performing the work.
- One day prior to the shutdown, the PROPOSER will conduct a meeting with all responsible personnel from the Contractor and the DISTRICT to review the status of the action items, including the implementation of the LOTO plan, to determine if the facility is ready to support the work. If all items have not been taken care of, then the work will be postponed until all actions have been completed and all parties can meet and agree that the work can begin. When all action items are completed, the PROPOSER will notify the Contractor and all involved DISTRICT groups that the outage is in place and that the specified work can commence the following day and continue until the work is completed.
- When all work has been completed, the PROPOSER will conduct a meeting with all parties involved to confirm that they agree the work is complete, and:
 - Agree on removing the LOTO
 - The Plant Operator returns plant to normal
 - The Plant Operator issues notice that the shutdown is no longer in effect
- If the work is not complete and the facility needs to be returned to full service, the PROPOSER, DISTRICT construction project manager, Facility Operator and the Contractor will meet and work out a plan for returning the facility to service.

V. Equipment Testing – Factory, Functional, and Performance

- Factory Testing - Specifications will state which equipment factory testing is required on and whether the DISTRICT requires witnessing. If witnessing is chosen, a DISTRICT representative will be sent to the factory to observe the manufacturer's standard running test.
- Functional Testing - The Contractor shall submit test methods and procedures for review by the PROPOSER. The PROPOSER shall review and make recommendation

for approval to the DISTRICT. The Contractor shall perform all functional testing of installed equipment in the presence of the PROPOSER. The PROPOSER or Contractor (depending on the specifications) will measure and record results of the testing. The Contractor shall submit typewritten test reports and forms for review and acceptance. The technical specifications may require a manufacturer's authorized representative to perform all testing services and the representative shall be subject to acceptance by the DISTRICT. Refer to Specification Section 01 75 17 for specific project testing requirements.

- Performance Testing - Same as Functional Testing but with required witnessing by the DISTRICT Engineer. Performance Tests shall not proceed until the Functional Test has been successfully completed.

W. Defective Work

PROPOSER shall verbally inform Contractor of deficient work and/or non-compliance with contract documents.

PROPOSER shall issue written field memo documenting non-compliance. Memo should require a response from Contractor identifying corrective measures the Contractor plans to take and when work will be performed. If defective work involves a safety hazard, Contractor should be given the option of either completing work within a specified timetable or risk having problem corrected by others at the Contractor's expense.

PROPOSER shall log all instances of non-compliance and related correspondence in Daily Inspection Report and take photos.

PROPOSER shall notify DISTRICT if deficient work has not been corrected within ten (10) working days after receipt of the Deficiency Notice.

X. Facility Control System Functional Testing and Startup

Tests are run by DISTRICT personnel or DISTRICT's Commissioning Proposer. DISTRICT personnel will operate the process or system at, or as near as possible to, conditions that will exist after the DISTRICT has taken over the process or system.

Control System Functional Testing should not be started until the Contractor has successfully completed functional and performance testing, disinfection, and provided training.

Startup Testing is continued or repeated until proper operation and performance, as required by the contract documents, is demonstrated continuously and trouble free for the specified number of days.

During this DISTRICT Facility Testing and Startup, the Contractor and their personnel should not operate the process or system. The PROPOSER should be observing and advising only.

Y. Punchlist

When a project or a project element is substantially complete (ready for service), the PROPOSER issues a preliminary punchlist identifying all incomplete or deficient work items and issues it to the Contractor via a field memo. This list is updated, as required, based upon work progress and items of work subsequently identified.

Prior to project acceptance and prior to issuing a final punchlist, the PROPOSER schedules and coordinates a walkthrough of the project or project element by internal users (such as Operations, Maintenance, Regulatory Compliance, etc.) and outside permitting agencies, as required. The PROPOSER documents all areas of concern identified during the walkthrough and provides this list to the attendees to ensure that all issues raised were documented. This list of items will be reviewed with the DISTRICT to determine which items of concern are truly punchlist items that need to be completed as part of the project. Additionally, the PROPOSER reviews all outstanding contract document issues and is responsible for inclusion to the final punchlist. Any deficiencies identified are included on the final punchlist.

When appropriate, the PROPOSER issues a final punchlist and is responsible for verifying completion of all items prior to project acceptance. Minor items that are still not completed when the DISTRICT is ready to accept the project may be converted to warranty items.

Z. Final Inspection

Upon notification of all contract work including completion of punchlist work, PROPOSER conducts an on-site inspection to verify satisfactory completion of punchlist items.

When the PROPOSER is satisfied with the completion of punchlist work, the PROPOSER schedules a final walkthrough inspection with the DISTRICT to confirm that the facility has been built as specified and that the facility user group is ready to accept the facility for operation.

Following successful completion of the user group's final inspection, the PROPOSER recommends to the DISTRICT that the project be accepted.

AA. Final Project Report

The PROPOSER shall prepare a Project Final Project Report upon completion and acceptance of a DISTRICT specification contract. The report shall contain information on the following:

- Contract scope
- Job and permit numbers
- Extended warranties
- Key job dates
- DISTRICT personnel
- PROPOSER personnel
- Contractor and outside agency personnel
- Listing of general contractor and subcontractors
- Listing of material suppliers
- Miscellaneous quantity summary
- List of bidders (furnished by DISTRICT)
- Progress payment breakdown
- Contract Acceptance Notice and Exhibits (furnished by DISTRICT)
- Change orders
- Change order summary and job costs
- Final payment
- Release (furnished by DISTRICT)
- Suggested modifications to future plans and specifications

The PROPOSER shall submit the Final Report to the DISTRICT for review within one hundred twenty (120) days of Final Inspection.



EXHIBIT C

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 C to the DISTRICT. The Exhibit C may be signed by an officer of the CONTRACTOR (Agent) or by the Insurance Broker for the CONTRACTOR. CONTRACTOR shall update Exhibit C throughout the specified term of the insurance required by this Agreement by resubmitting the completed Exhibit C prior to the expiration date of any of the required insurance. The updated Exhibit C 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 an 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 C 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 C.

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

- A. Workers' Compensation insurance including Employer's Liability insurance with minimum limits as follows:
- Coverage A. Statutory Benefits Limits
 - Coverage B. Employer's Liability of not less than:
 - Bodily Injury by accident: \$1,000,000 each accident
 - Bodily Injury by disease: \$1,000,000 each employee
 - Bodily Injury by disease: \$1,000,000 policy limit
- B. CONTRACTOR's insurance shall be primary, and any insurance or self-insurance procured or maintained by the DISTRICT shall not be required to contribute to it.
- C. If there is an onsite exposure of injury to CONTRACTOR, subcontractor, and/or subcontractor's employees under the U.S. Longshore and Harbor Workers' Compensation Act, the Jones Act, or under laws, regulations or statutes applicable to maritime employees, coverage is required for such injuries or claims.
- D. If CONTRACTOR is self-employed, a sole proprietorship or a partnership, with no employees, and is exempt from carrying Workers' Compensation Insurance, CONTRACTOR must return the completed Verification of Insurance confirming that CONTRACTOR has no employees and is exempt from the State of California Workers' Compensation requirements.
- E. If CONTRACTOR is self-insured with respect to Workers' Compensation coverage, CONTRACTOR shall provide to the DISTRICT a Certificate of Consent to Self-Insure from the California Department of Industrial Relations. Such self-insurance shall meet the minimum limit requirements and shall waive subrogation rights in favor of the DISTRICT as stated below in section "F."
- F. Waiver of Subrogation. Workers' Compensation policies, including any applicable excess and umbrella insurance, must contain a waiver of subrogation endorsement providing that CONTRACTOR and each insurer waive any and all rights of recovery by subrogation, or otherwise, against the DISTRICT, its directors, board, and committee members, officers, officials, employees, agents, and volunteers. CONTRACTOR shall defend and pay any and all damages, fees, and costs, of any kind arising out of, pertaining to, or in any way relating to CONTRACTOR's failure to provide waiver of subrogation from the insurance carrier.

INSURANCE VERIFICATION DOCUMENTS

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

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

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

Self-Insured Retention Amount: \$ _____

Policy Limit: \$ _____

Policy Number: _____

Policy Period: from: _____ to: _____

Insurance Carrier Name: _____

Insurance Broker or Agent: Print Name: _____

Insurance Broker or Agent's Signature: _____

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

- A. CONTRACTOR’s insurance shall be primary, and any insurance or self-insurance procured or maintained by the DISTRICT shall not be required to contribute to it.
- B. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policies or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the CONTRACTOR.
- C. Minimum Requirements. CGL insurance with minimum per occurrence and aggregate limits as follows:
- | | |
|------------------------------------|--|
| Bodily Injury and Property Damage | \$2,000,000 per occurrence & aggregate |
| Personal Injury/Advertising Injury | \$2,000,000 per occurrence & aggregate |
| Products/Completed Operations | \$2,000,000 per occurrence & aggregate |
- D. Coverage must be on an occurrence basis.
- E. Coverage for Products, and Completed Operations, and Ongoing Operations must be included in the insurance policies and shall not contain any “prior work” coverage limitation or exclusion applicable to any Services performed by CONTRACTOR and/or subcontractor under this Agreement.
- F. Insurance policies and Additional Insured Endorsement(s) Coverage shall be included for all premises and operations in any way related to this Agreement.
- G. There will be no exclusion for explosions, collapse, or underground liability (XCU).
- H. Insurance policies and Additional Insured Endorsement(s) shall not exclude liability and damages to work arising out of, pertaining to, or in any way relating to services performed by Subcontractor on CONTRACTOR’s behalf.
- I. Contractual liability coverage shall be included and shall not limit, by any modification or endorsement, coverage for liabilities assumed by CONTRACTOR under this Agreement as an “insured contract.”
- J. Waiver of Subrogation. The policy shall be endorsed to include a Waiver of Subrogation ensuring that the CONTRACTOR and its insurer(s) waive any rights of recovery by subrogation, or otherwise, against the DISTRICT, its directors, board, and committee members, officers, officials, agents, volunteers, and employees. CONTRACTOR shall defend and pay any and all damages, fees, and costs, of any kind, arising out of, pertaining to, or in any way resulting from CONTRACTOR’s failure

to provide the waiver of subrogation from its insurance carrier(s).

- K. "Independent CONTRACTOR's Liability" shall not limit coverage for liability and/or damages arising out of, pertaining to, or in any way resulting from Services provided under this Agreement.

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

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

Verification of Commercial General Liability (CGL) Insurance Coverage

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

Self-Insured: Amount: \$ _____

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

Policy Number: _____

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

Insurance Carrier Name: _____

Insurance Broker or Agent: Print Name: _____

Insurance Broker or Agent's Signature: _____

III. Business Auto Liability Insurance Coverage

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

- A. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policies or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the CONTRACTOR.
- B. Minimum Requirements. Auto insurance with minimum coverage and limits as follows:
- | | |
|--|-------------|
| Each Occurrence Limit (per accident) and in the Aggregate: | \$2,000,000 |
| Bodily Injury and Property Damage: | \$2,000,000 |
- C. Coverage must include either "owned, non-owned, and hired" autos or "any" automobile
- This provision ensures the policy covers losses arising out of use of company-owned vehicles ("owned autos"), employee's personal autos ("non-owned autos" meaning not owned by company/insured) or autos that are rented or leased ("hired autos").
- D. If CONTRACTOR is transporting hazardous materials or contaminants, evidence of the Motor Carrier Act Endorsement-hazardous materials clean-up (MCS-90, or its equivalent) must be provided.
- E. If CONTRACTOR's Scope of Services under this Agreement exposes a potential pollution liability risk related to transport of potential pollutants, seepage, release, escape or discharge of any nature (threatened or actual) of pollutants into the environment arising out of, pertaining to, or in any way related to CONTRACTOR's and/or Subcontractor's performance under this Agreement, then Auto Liability Insurance policies must be endorsed to include Transportation Pollution Liability insurance. Alternatively, coverage may be provided under the CONTRACTOR's Pollution Liability Policies if such policy has no exclusions that would restrict coverage under this Agreement. Coverage shall also include leakage of fuel or other "pollutants" needed for the normal functioning of covered autos.
- F. To the fullest extent permitted by law, the DISTRICT, its directors, board, and committee members, officers, officials, employees, agents, and volunteers must be covered as Additional Insureds on a primary and noncontributory basis on all underlying and excess and umbrella policies. The Additional Insureds must be covered for liability arising in whole, or in part, from any premises, Products, Ongoing Operations, and Completed Operations by or on behalf of CONTRACTOR, in any way related to Services performed under this Agreement.

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

Verification of Business Auto Liability Insurance Coverage

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

Self-Insured: Amount: \$ _____

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

Policy Number: _____

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

Insurance Carrier Name: _____

Insurance Broker or Agent: Print Name: _____

Insurance Broker or Agent's Signature: _____

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

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

Each Claim or Occurrence Limit:	\$2,000,000
Aggregate Limit:	\$2,000,000
- D. If Coverage is written on a claims-made form, the following shall apply:
 - 1. The retroactive date must be shown and must be before the date of the Agreement or the beginning of the Services.
 - 2. Insurance must be maintained, and evidence of insurance must be provided for a minimum of three (3) years after completion of the Services.
 - 3. If claims-made coverage is canceled or non-renewed, and not replaced with another claims-made policies form with a retroactive date prior to the effective date of the Agreement, CONTRACTOR must purchase an extended period of coverage for a minimum of three (3) years after completion of the Services.
- E. Insurance shall include prior acts coverage sufficient to cover the services under this Agreement.
- F. Coverage shall be included for all premises and operations in any way related to this Agreement.

Verification of Professional Liability (Errors and Omissions) Insurance Coverage

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

Self-Insured: Amount: \$ _____

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

Policy Number: _____

Policy Period: from: _____ to: _____

Insurance Carrier Name: _____

Insurance Broker or Agent: Print Name: _____

Insurance Broker or Agent's Signature: _____

V. Excess and/or Umbrella Liability Insurance Coverage

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

8. A severability of interest provision must apply for all the Additional Insureds, ensuring that the CONTRACTOR's insurance shall apply separately to each insured against whom a claim is made, or suit is brought, except with respect to the policy's limits.
 9. CONTRACTOR and its excess and/or umbrella Liability insurance coverage must waive any rights of subrogation against the DISTRICT, its directors, officers, officials, employees, agents, and volunteers, and CONTRACTOR shall defend and pay any damages as a result of failure to provide the waiver of subrogation from the insurance carrier(s).
- D. CONTRACTOR shall defend and pay any damages as a result of failure to provide the waiver of subrogation from the insurance carrier(s).

Verification of Excess and/or Umbrella Liability Insurance Coverage

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

Self-Insured: Amount: \$ _____

Policy Number: _____

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

Insurance Carrier Name: _____

Insurance Broker or Agent: Print Name: _____

Insurance Broker or Agent's Signature: _____



EXHIBIT D
STANDARD CONSULTING AND PROFESSIONAL SERVICES
AGREEMENT TEMPLATE

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

THIS Agreement is made and entered into this _____ day of *(month)*, 202_, by and between **EAST BAY MUNICIPAL UTILITY DISTRICT**, a public entity, hereinafter called "DISTRICT," and *(CONSULTANT'S FULL LEGAL NAME, BOLD, ALL CAPS followed by type of entity [corporation, etc.])*, hereinafter called "CONSULTANT."

WITNESSETH

WHEREAS, DISTRICT requires consulting services for *(need for project)*; and

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

WHEREAS, CONSULTANT has submitted a proposal to provide consulting services for *(state type - "preparation of planning documents", "preparation of design documents", or "construction management support services")* for the *(project title)* and CONSULTANT represents that it has the experience, licenses, qualifications, staff expertise and where necessary the required Department of Industrial Relations (DIR) registration to perform said services in a professional and competent manner; and

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

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.
- 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

7.1 Indemnification

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

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

7.2 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 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 Engineering and Construction Department
P.O. Box 24055
Oakland, CA 94623-1055

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

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

ARTICLE 9 - MISCELLANEOUS

- 9.1 This Agreement represents the entire understanding of DISTRICT and CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may only be modified by amendment in writing signed by each party.
- 9.2 This Agreement is to be binding on the successors and assigns of the parties hereto. The services called for herein are deemed unique and CONSULTANT shall not assign, transfer or otherwise substitute its interest in this Agreement or any of its obligations hereunder without the prior written consent of DISTRICT.
- 9.3 Should any part of this Agreement be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement can be interpreted to give effect to the intentions of the parties.
- 9.4 Multiple copies of this Agreement may be executed by the parties and the parties agree that the Agreement on file at the DISTRICT is the version of the Agreement that shall take precedence should any differences exist among counterparts of the Agreement.
- 9.5 This Agreement and all matters relating to it shall be governed by the laws of the State of California.
- 9.6 The District's waiver of the performance of any covenant, condition, obligation, representation, warranty or promise in this agreement shall not invalidate this Agreement or be deemed a waiver of any other covenant, condition, obligation, representation, warranty or promise. The District's waiver of the time for performing any act or condition hereunder does not constitute a waiver of the act or condition itself.
- 9.7 There shall be no discrimination in the performance of this contract, against any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, gender including gender identity or expression, age, marital or domestic partnership

status, mental disability, physical disability (including HIV and AIDS), medical condition (including genetic characteristics or cancer), veteran or military status, family or medical leave status, genetic information, or sexual orientation. CONSULTANT shall not establish or permit any such practice(s) of discrimination with reference to the contract or any part. CONSULTANTS determined to be in violation of this section shall be deemed to be in material breach of this Agreement.

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

CONSULTANT shall include the nondiscrimination provisions above in all subcontracts.

- 9.8 CONSULTANT affirms that it does not have any financial interest or conflict of interest that would prevent CONSULTANT from providing unbiased, impartial service to the DISTRICT under this Agreement.
- 9.9 Digital Signatures. The Parties agree that this Agreement may be executed using digital signatures.

ARTICLE 10 - TERM

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

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

EAST BAY MUNICIPAL UTILITY DISTRICT

By: _____ 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)

Rev. 6/2/2021

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. 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, 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. 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 monthly 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.

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/wpnodeb.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

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

I. Provisions Applicable to All Required Insurance

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

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

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

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

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

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

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

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

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

J. CONSULTANT shall defend the DISTRICT and pay any damages as a result of failure to

provide the waiver of subrogation from the insurance carrier.

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

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

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

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

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

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

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

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

S. Notice of Cancellation/Non-Renewal/Material Reduction The insurance requirements hereunder are mandatory and the DISTRICT may, at its sole and absolute discretion, terminate the services provided by CONSULTANT, should CONSULTANT breach its obligations to maintain the required coverage and limits set forth in this Agreement. No coverage required hereunder shall be cancelled, non-renewed or materially reduced in coverage or limits without the DISTRICT being provided at least thirty (30) days prior written notice, other than cancellation for the non-payment of premiums, in which event the DISTRICT shall be provided

ten (10) days prior written notice. Replacement of coverage with another policy or insurer, without any lapse in coverage or any reduction of the stated requirements does not require notice beyond submission to the DISTRICT of an updated Verification of Insurance which shall be met by having the CONSULTANT's insurance broker or agent update, sign and return this *Exhibit D*

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

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

Coverage A. Statutory Benefits Limits

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

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

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

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

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

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

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

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

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

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

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

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

Self-Insured Retention: Amount: \$ _____

Policy Limit: \$ _____

Policy Number: _____

Policy Period: from: _____ to: _____

Insurance Carrier Name: _____

Insurance Broker or Agent: Print Name: _____

Insurance Broker or Agent's Signature: _____

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

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

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

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

Bodily Injury and Property Damage \$2,000,000 per occurrence & aggregate

Personal Injury/Advertising Injury \$2,000,000 per occurrence & aggregate

Products/Completed Operations \$2,000,000 per occurrence & aggregate

D. Coverage must be on an occurrence basis.

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

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

G. There will be no exclusion for explosions, collapse, or underground liability (XCU).

H. Insurance policies and Additional Insured Endorsement(s) shall not exclude liability and damages to work arising out of, pertaining to, or in any way relating to services performed by Subcontractor on CONSULTANT’s behalf.

I. Contractual liability coverage shall be included and shall not limit, by any modification or endorsement, coverage for liabilities assumed by CONSULTANT under this Agreement as an “insured contract.”

J. Waiver of Subrogation. The policy shall be endorsed to include a Waiver of Subrogation ensuring that the CONSULTANT and its insurer(s) waive any rights of recovery by subrogation, or otherwise, against the DISTRICT, its directors, board, and committee members, officers, officials, agents, volunteers, and employees. CONSULTANT shall defend and pay any and all damages, fees, and costs, of any kind, arising out of, pertaining to, or in any way resulting from CONSULTANT’s failure to provide the waiver of subrogation from its insurance carrier(s).

K. “Independent CONSULTANT’s Liability” shall not limit coverage for liability and/or damages arising out of, pertaining to, or in any way resulting from Services provided under this Agreement.

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

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

Verification of Commercial General Liability (CGL) Insurance Coverage

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

Self-Insured: Amount: \$ _____

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

Policy Number: _____

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

Insurance Carrier Name: _____

Insurance Broker or Agent: Print Name: _____

Insurance Broker or Agent’s Signature: _____

IV. Business Auto Liability Insurance Coverage

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

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

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

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

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

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

be provided.

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

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

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

Verification of Business Auto Liability Insurance Coverage

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

Self-Insured: Amount: \$ _____

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

Policy Number: _____

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

Insurance Carrier Name: _____

Insurance Broker or Agent: Print Name: _____

Insurance Broker or Agent's Signature: _____

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

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

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

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

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

Aggregate Limit: \$2,000,000

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

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

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

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

Verification of Professional Liability (Errors and Omissions) Insurance Coverage

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

Self-Insured: Amount: \$ _____

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

Policy Number: _____

Policy Period: from: _____ to: _____

Insurance Carrier Name: _____

Insurance Broker or Agent: Print Name: _____

Insurance Broker or Agent’s Signature: _____

VI. Excess and/or Umbrella Liability Insurance Coverage

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

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

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

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

2. Coverage shall be included for all premises and operations in any way related to this Agreement.
3. There will be no exclusion for explosions, collapse, or underground damage (XCU).
4. Insurance policies and Additional Insured Endorsements shall not exclude coverage for liability and damages from services performed by Subcontractor on CONSULTANT's behalf.
5. Contractual liability coverage shall be included and shall not limit, by any modification or endorsement, coverage for liabilities assumed by CONSULTANT under this Agreement as an "insured contract."
6. "Independent CONSULTANT's Liability" shall not limit coverage for liability and/or damage arising out of, pertaining to, or in any way related to Services provided under this Agreement.
7. To the fullest extent permitted by law, the DISTRICT, its directors, officers, officials, agents, volunteers, and employees must be covered as Additional Insureds on a primary and noncontributory basis on all excess and umbrella policies. The Additional Insureds must be covered for liability arising in whole or in part from any premises, Products, Ongoing Operations, and Completed Operations by or on behalf of CONSULTANT, in any way related to Services performed under this Agreement.
8. A severability of interest provision must apply for all the Additional Insureds, ensuring that the CONSULTANT's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the policy's limits.
9. CONSULTANT and its excess and/or umbrella Liability insurance coverage must waive any rights of subrogation against the DISTRICT, its directors, officers, officials, employees, agents, and volunteers, and CONSULTANT shall defend and pay any damages as a result of failure to provide the waiver of subrogation from the insurance carrier(s).

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

Verification of Excess and/or Umbrella Liability Insurance Coverage

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

Self-Insured: Amount: \$ _____

Policy Number: _____

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

Insurance Carrier Name: _____

Insurance Broker or Agent: Print Name: _____

Insurance Broker or Agent's Signature: _____