

REQUEST FOR PROPOSAL (RFP) 927-2401 FOR
WASTEWATER DEPARTMENT
AS-NEEDED CONSTRUCTION MANAGEMENT AND INSPECTION
SUPPORT SERVICES
COVER PAGE

CONTACT:

Project Manager: Adam Mansour, Associate Civil Engineer
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Contract Equity Program (CEP):
(510) 287-0114

SUBMIT PROPOSAL ELECTRONICALLY TO

(Hardcopy proposals will not be accepted)

Adam Mansour, EBMUD

CALENDAR OF EVENTS

EVENT	DATE/LOCATION	
RFP Issued	Tuesday March 12 th	
Proposal Conference (Optional)	Wednesday March 27 th , 10:00 a.m.	MS Teams. Email adam.mansour@ebmud.com for invite
Last Day for Questions	Friday March 29 th , 4:30 p.m.	By email to Contact
Proposals Due	Friday April 19 th , 4:30 p.m.	
Contract Period - Approximate	July 2024 to July 2027, with option for two year extension	

ADDENDA

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.

NOTE

The terms "Proposal" and "RFP Response" are used interchangeably in this document and refer to the same thing.

EAST BAY MUNICIPAL UTILITY DISTRICT

**RFP for Wastewater Department
As-needed Construction Management and
Inspection Support Services**

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I. STATEMENT OF WORK

A. SCOPE

It is the intent of this project to retain the services of up to two (2) qualified Proposers to provide as-needed construction management (CM) and construction inspection (CI) services to support the District's Project and Construction Management (PCM) Section for a variety of construction projects.

Each contract will be for a three year term, with optional two year extension based on performance, funding, and resource needs. Total for each contract shall not-to-exceed \$3 million, inclusive of any reimbursable costs. The District reserves the right to commence, close, reduce, or extend Proposer services at any time in response to changing needs.

B. PROPOSER QUALIFICATIONS

Ideal candidates shall have the following qualifications:

1. At least five years in business providing CM and inspection services for public works/utility infrastructure construction projects.
2. Experience with wastewater utility projects, including projects involving wastewater treatment plants, pump stations, remote wet weather treatment facilities, wastewater interceptor pipelines, and other wastewater treatment facilities.
3. Clearly demonstrated experience in a lead role providing CM and inspection services including experience managing multiple projects, tasks, and associated staff to ensure the provisions of quality services.
4. Possess all permits, licenses, and professional credentials necessary to perform services as specified under this RFP.

C. SPECIFIC REQUIREMENTS

EBMUD is issuing this RFP for the purpose of retaining the services of up to two qualified Proposers to provide as-needed construction management (CM) and construction inspection (CI) services in support of Project and Construction Management Sections 1 and 2 (PCM1 and PCM2) under the Wastewater Department, Engineering Division.

The selected Proposers will provide as-needed CM and CI services to support wastewater construction projects including: wastewater treatment plant upgrades; wastewater pump station rehabilitation; interceptor pipeline rehabilitation and replacement; sanitary sewer gravity force main cleaning and rehabilitation; occupied building seismic and general renovation; and various

other Wastewater Department construction projects. A list of current and upcoming projects is included in Exhibit B.

EBMUD will allocate work by issuing task orders to the selected Proposers. EBMUD will request qualifications and staffing for each project. The scope of work and schedule will be determined by EBMUD. Upon agreement with the Proposer of the scope of work, budget, and schedule, a task order will be issued with a task order start date and end date.

The need for CM and CI support services will fluctuate according to the scope of individual construction projects. Proposer will use the District's construction management software, Kahua. Work shifts are typically on-site 7:30 a.m. to 4:00 p.m. Monday through Friday but may vary according to workload and assignments.

The general roles and responsibilities of the potential CM and CI positions are described below. EBMUD reserves the right to amend the descriptions of the roles and responsibilities to suit the needs of the various construction projects for which the as-needed support services are being provided. EBMUD will discuss the changes, if any, with the selected Proposers. The roles and responsibilities of the specific CM and CI positions will be stipulated in each task order. Please provide 1 resume for the Proposers Project Manager and a minimum of 3 resumes for each of the RE, ARE, and CI positions.

KEY PERSONNEL:

1. **Proposer's Project Manager:** The Proposer's project manager shall be responsible for coordinating with EBMUD including preparation of task orders, monthly check-ins, invoicing, and general contract management.
2. **Resident Engineer (RE):** The RE will report to the EBMUD project construction manager and will be required to perform a wide range of support duties including:
 - a. Review and assist with management of the overall project budget, scope, and schedule.
 - b. Prepare cost estimates and project schedules.
 - c. Perform field activities including monitoring construction quality control and investigation of field issues/conflicts.
 - d. Identify and recommend alternatives to key issues.
 - e. Identify and mitigate project risks.
 - f. Assist with review of engineering calculations and technical memoranda.
 - g. Review and assist with change order and claims negotiation.
 - h. Track and route submittals and requests for information (RFIs). Assist with review of simpler submittals and RFIs when possible.

- i. Maintain construction documentation and records.
 - j. Participate in testing/training/startup activities.
 - k. Serve as an ancillary point of contact between the construction contractor, EBMUD, and stakeholders.
3. **Assistant Resident Engineer (RE)**: The Assistant RE will report to the EBMUD project construction manager. The Assistant RE is assumed to have less experience than the RE, but will be required to perform similar duties including:
- a. Ensure compliance with contract documents and monitor quality of construction.
 - b. Perform inspection and testing activities.
 - c. Resolve field problems, responding to contractor Request for Information (RFI's), and assisting with the preparation of change order packages.
 - d. Review contractor schedule updates to ensure viability of construction sequence.
 - e. Ensure the maintenance of accurate and complete documentation of project activities and field files.
 - f. Prepare and/or assist in preparation of outgoing correspondence.
 - g. Conduct and prepare minutes of weekly progress meeting with contractor.
 - h. Coordinate with EBMUD or outside agency staff as required.
 - i. Act as EBMUD field contact with other agencies and the public on assigned projects.
 - j. Review and make recommendations regarding contractor progress payments.
 - k. Coordinate, document, and provide receipt acceptance of EBMUD furnished equipment and materials from the construction contractor and transfer to EBMUD.
 - l. Coordinate turnover of record drawings (construction contractor's red-lined as-built drawings), Operations & Maintenance manuals, spare parts, and warranties to EBMUD.
4. **Construction Inspector (CI)**: The CI will report to the EBMUD construction inspector supervisor and to the EBMUD project manager. Typical CI tasks will include:
- a. Perform quality assurance (QA) inspection.
 - b. Check EBMUD plans and specifications to ensure contractor compliance regarding construction methods, equipment, standards, workmanship and quantity and quality of materials involved in the project.
 - c. Provide constructability oversight for projects during construction.
 - d. Help with field resolution of construction issues.
 - e. Must be able to supplement the District construction inspection team

during holidays, weekend, or overnight work.

- f. Possible inspection disciplines include: civil, structural, architectural, mechanical, electrical, instrumentation and control.

5. **Optional Services:**

Some projects may require Optional Services listed below. Proposers should include information documenting any experience with these areas, although optional services will not be the focus of the evaluation.

- a. Specialty inspection – examples may include welding, coating inspection, structural, hazardous materials, others.
- b. Cost estimation
- c. Claims support
- d. Construction safety inspection – includes review of contractor’s project safety documents
- e. Constructability review – review the feasibility and efficiency of the plans and specifications before construction begins.
- f. Project controls – including cost controls and critical path method scheduling
- g. Startup – lead for startup and commissioning

II. CALENDAR OF EVENTS

A. **GENERAL**

The Calendar of Events for the Proposal is included on the Cover Page of this RFP. All dates are subject to change. Proposers are responsible for reviewing the District website for updates, website address as noted on the cover page.

B. **QUESTIONS**

All questions deemed to be pertinent by the District will be addressed in addenda. Proposers should submit questions via email. Schedule constraints for questions and any addenda are included on the Cover Page.

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.
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 the 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.

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. 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.

EVALUATION PART 1. Criteria used to select Top Four Proposers for Interviews.

	Evaluation Criteria	Points
A.	<p>Proposer Relevant Experience</p> <ul style="list-style-type: none"> • Does the Proposer have experience on similar projects for other public entities? • Does the Proposer have experience with wastewater projects? • Does the proposer have experience coordinating with in-house (Operations and Maintenance) staff and external (public, other cities, and other agency) stakeholders? • Does Proposer demonstrate ability to manage large and small (\$250K to \$30M) projects? • How well does the Proposer understand the required scope for this contract? 	20
B.	<p>Proposed Staffing</p> <ul style="list-style-type: none"> • Proposer’s organizational chart demonstrates ability to provide flexibility for as-needed staffing. • Proposer’s staff summary demonstrates ability to provide experienced staff with maximum flexibility; includes in-house staff or staff available from subconsultants. • Do resumes demonstrate backgrounds that would be desirable for the types of projects EBMUD will require? 	20
C.	<p>References</p> <ul style="list-style-type: none"> • Strength of references for Proposer’s projects. • Strength of references for staff. 	20
D.	<p>Rate Sheet and Multiplier</p> <p>Are Proposer’s rates and multiplier reasonable and reflective of experience and technical competence?</p>	10
E.	<p>Exceptions, Clarifications, Amendments:</p> <p>Has Proposer submitted significant and/or multiple exceptions, clarifications, or amendments? (Proposers will automatically begin with 10 points, and points may be deducted for significant and/or multiple exceptions, clarifications, or amendments.)</p>	10
F.	<p>Contract Equity Program (CEP):</p> <ul style="list-style-type: none"> • As described in Exhibit A-Contract Equity Program 	5
	Subtotal – Possible Points (Before Interviews)	85

EVALUATION PART 2. Evaluation Including Interviews.

	Subtotal – Possible Points (A. through F. from above)	85
G.	Oral Presentation and Interview Did the Proposer demonstrate they have the experience and flexibility to provide the as-needed services required for this as-needed contract.	15
	Total – Possible Points (A. through G.)	100

The two Proposers with the highest total scores will be identified as the highest-ranked Proposers eligible to proceed with the award of the agreements.

C. PRICING

1. Prevailing Wages:

All Consultants proposing 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.

The Consultant 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 of the State of California.

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 Contractor 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 Contractor 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 Contractor because of payment by Contractor 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 his 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.

D. NOTICE OF INTENT TO AWARD AND PROTESTS

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

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

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

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

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

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

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

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

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

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

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

E. INVOICING

1. Following the Districts acceptance of the complete and satisfactory performance of services, the District will render payment within thirty (30) days of receipt of a correct invoice.

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

IV. RFP RESPONSE SUBMITTAL INSTRUCTIONS AND INFORMATION

A. DISTRICT CONTACTS

All contact during the competitive process is to be through the contact listed on the Cover Page of this RFP.

B. SUBMITTAL OF RFP RESPONSE

1. No hardcopy proposals will be accepted. Upload RFP response in pdf format prior to the bid due date/time for RFP submittals, in its entirety. The District's email has limitations on attachment size. Make sure RFP response is less than 25 megabytes. If the file exceeds the limit, 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. Call the contact on the Cover Page 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, D, or E to 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 – Wastewater Department As-Needed Construction Management and Inspection Support Services

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

From: _____
(Official Name of Proposer)

RFP RESPONSE PACKET GUIDELINES

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



PROPOSER INFORMATION AND ACCEPTANCE

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

Addendum #	Date

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

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

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

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

Street Address Line 1: _____

Street Address Line 2: _____

City: _____ State: _____ Zip Code: _____

Webpage: _____

Type of Entity / Organizational Structure (check one):

Corporation

Joint Venture

Limited Liability Partnership

Partnership

Limited Liability Corporation

Non-Profit / Church

Other: _____

Jurisdiction of Organization Structure: _____

Date of Organization Structure: _____

Federal Tax Identification Number: _____

Department of Industrial Relations (DIR) Registration Number: _____

Primary Contact Information:

Name / Title: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

Street Address Line 1: _____

City: _____ State: _____ Zip Code: _____

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_____



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, References, etc.).

Length of RFP Response: The District's goal is to limit RFP Responses to 20 pages, excluding resumes; maximum should be 25 pages.

1. **Transmittal Letter:** Include a transmittal letter which provides a summary of the Proposer's capabilities and approach in providing its services to the District. The cover letter should provide a brief synopsis of the highlights of the RFP response and overall benefits to the District. (Maximum of two pages please.)
2. **Description of the Proposed Services:** Include a description of the services to be provided during the contract term. Specify how the services in the RFP response will meet or exceed the requirements of District. Explain resources or approaches that make the services of the Proposer particularly advantageous to the District. Identify any limitations or restrictions of the Proposer in providing the services that the District should be aware of in evaluating its RFP response.
3. **Company Experience:**
 - a. Provide Proposer's number of years in operation, location of offices, office where this project will be managed from.
 - b. Provide information of recent and past projects that best demonstrates that the Proposer has the flexibility and experience to provide as-needed CM and CI services similar to those required by EBMUD. Include at least four projects.
 - c. For each project provide background information including dates of participation, dollar amount of contract, project cost, services provided, and other information that may assist with highlighting the services provided.
 - d. Provide one or more reference for each project. Include name and position/role for each contact and phone number and email address.

4. **Personnel:**

- a. Provide a company organization chart to highlight how the company is poised to serve EBMUD.
- b. Provide a company Personnel Matrix or table that provides a succinct overview of the Proposer's staff. Include subconsultants if included in the RFP Response. For each staff include name, title, area of expertise, education, years of experience, years at Proposer's firm. Proposers with large staffs may have to summarize staffs in large groupings.
- c. In addition to the organization chart and Personnel Matrix, provide references for key personnel, particularly staff that will be the point of contact for the Proposer. Provide references for key personnel that would be the most likely to serve in as-needed roles for EBMUD. Reference information for personnel should include project name, contact name and role, duties of the personnel, beginning and end of service. Include phone number and email contact information for references. Include contact information for a minimum of four staff, and a minimum of two contacts for each.

5. **References:**

The District will contact references as convenient to help with Proposer evaluation. Proposers may be asked to provide additional references or assistance with contacting references. 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.

Proposers are encouraged to notify all references that the District may be contacting them to obtain a reference.

6. **Exceptions, Clarifications, and Amendments:**

- a. Using the "Exceptions, Clarifications, Amendments" section of this Exhibit A – Response Packet, the RFP response shall list all clarifications, exceptions, and amendments, if any, to the RFP and associated RFP documents.
- b. **THE DISTRICT IS UNDER NO OBLIGATION TO ACCEPT ANY EXCEPTIONS, AND SUCH EXCEPTIONS MAY BE A BASIS FOR PROPOSAL DISQUALIFICATION.**

7. **Contract Equity Program:**

Proposers 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.

8. **Rate Sheet and Typical Multiplier**

- a. Proposers shall provide a rate sheet which communicates the fully burdened hourly rate charged per position as it relates to this RFP. Rates can be presented as a range. In addition, list any items normally considered as additional reimbursement.
- b. Provide expected multiplier, including overhead and profit, for this project.

9. **Iran Contracting Act Certification**

Proposer must submit the "Iran Contracting Act Certification" included as Exhibit C to demonstrate compliance with state law.

10. **Interview**

Proposers will be evaluated based on the criteria summarized under Part 1 (Criteria A. through F.) and the top four Proposers will be invited for an interview with the Selection Committee. The interview will be conducted on Teams. During the interview each Proposer will have 20-30 minutes to present a prepared presentation describing why they should be considered the most qualified to meet the District's needs. This will be followed by 20-30 minutes for questions, answers, and discussion. This will include standard questions asked of all Proposers.

The Selection Committee will allocate points for the Interview as noted above under Part 2., Item G. The points from Part 1. (A. through F.) will be added to Part 2. for the total Proposer score. The Proposer(s) with the highest scores will be recommended for contract negotiation and award for the project.



*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 ACTIVE DISTRICT PROJECTS

Table B1: Active Wastewater Department Construction Projects

WASTEWATER PROJECTS CURRENTLY IN CONSTRUCTION				
SD No.	Proj Cost	Project Title	Status, Next Milestone and Due Date	Brief Description of Work
356	\$19.1M	Digester Upgrade Ph3	Construction in progress	Digester 2, 3, 4, 5 upgrades at the MWWTP including structural and mechanical rehabilitation, new covers for Digestors 3 and 4. The project also includes interior coating of Digester 2, 3, 4, and 5.
398	\$7.0M	PS M Impr. & FM Investigation	Construction in progress	Repair and improve pump station building operation reliability, maintenance accessibility, resiliency to flooding. Work also includes force main repair and underground utility investigation.
404	\$8.4M	So. Interceptor Special Structures Rehab Ph 1	Construction in progress	Rehabilitate six manhole structures and six pipe sections.
413	\$7.0M	MWWTP PGS Reliability Impr Ph 3	Construction in progress	Replacement and improvements MWWTP Power Generation Station (PGS) including its gas conditioning system, compressed air system, heat management system, digester gas piping and electrical controls. Work includes the demolition of an abandoned gas holder tank and seismic upgrades to the PGS control building, boiler canopy and turbine stack structure.
424	\$7.1M	MWWTP Ops Center Impr	Construction in progress	Repairs and improvements of the Operation Center Building at the MWWTP including roof replacement, hazardous material abatement, HVAC and electrical equipment replacement, and interior architectural remodels.
431	\$2.5M	Declor Phase 3	Construction in progress	Replacement and improvement of MWWTP Dechlorination Facility's chemical storage tanks, piping, valves, and fencing. Work also includes installing a new heating, cooling and ventilation system, door, sump as well as outdoor lighting
441	\$275k	MWWTP Lab Media Room Counter Replacement	Construction in progress	Repairs and improvements in the Main Wastewater Treatment Plant (MWWTP) Laboratory including replacement of casework, plumbing fixtures, countertops, drywall, flooring and seismic anchoring of equipment.
442	\$1.63M	Oakport SHC Tanks Replacement	Construction est. 08/2024	Remove and replace the three existing sodium hypochlorite (SHC) tanks and associated piping and instrumentation at the Oakport Wet Weather Facilities. Work also includes resurfacing and recoating tank concrete pads and containment area.
446	\$7.9M	Secondary Clarifier Rehab Phase 3	Construction in progress	Replacement of secondary sludge collector mechanism and repair of steel and concrete components on two clarifiers at the MWWTP.

Table B2: Upcoming Wastewater Department Construction Projects

WASTEWATER UPCOMING CONSTRUCTION PROJECTS				
SD No.	Estimated Construction Value	Project Title	Anticipated Advertise Date	Brief Description of Work
409	\$6.5M	MWWTP Blend Tank Area Odor Control and Degritting Facility Improvements	March 2024	Replacement of two existing odor control systems; improvement of existing grit removal system; installation of digester flare controls equipment; and security improvements at the main gate.
428	\$13M	MWWTP Oxygen Plant Rehabilitation	April 2024	Improvement of oxygen plant controls; recoating of two cold boxes and installation of cold box fall protection systems; seismic retrofit of electrical equipment and addition of fire protection system in oxygen plant control building; and replacement of four 1500-hp main air compressor motors.
454	\$9.2M	North Interceptor Emeryville Rehabilitation	May 2024	Sliplining of 2,500 linear feet of existing 66-inch interceptor reinforced concrete pipe with 60-inch FRP pipe. Project will require coordination with Caltrans and extensive traffic lane closures on I-80.
432	\$12M	MWWTP Grit Dewatering Building Equipment Replacement and Reactor Drain Improvements	June 2024	Replacement of grit classifiers, grit hopper, reactor drain pumps and associated electrical and mechanical components; installation of grit truck loading improvements; modifications to existing drain, grit, and sludge lines; construction of reactor gallery floor drainage improvements; and construction of washdown improvements at the FOG receiving station.
444	\$5M	Pump Station H Rehabilitation - Phase II	July 2024	Replacement of aging equipment (pumps, flowmeter, gates and air compressors); installation of protective coatings on inlet channels and main discharge header; and installation and operation of temporary bypass system.
459	\$14.6M	MWWTP Secondary Clarifier Improvements Phase 4	July 2024	Replacement of four secondary clarifiers over two dry weather seasons, including clarifier mechanical components, repair and resurfacing of clarifier wall and floor surfaces, MCC buckets replacement and electrical wiring. Inspection of secondary clarifier access channel.
450	\$7M	MWWTP Digester 7 Coating Repair and Site Improvements	August 2024	Removal and replacement of digester 7 coating; installation of new electrical sensors and associated wiring/mechanical work; installation of bollards and concrete medians; storm drain rehabilitation; digester 12 cover repairs; and optional removal and replacement of digester 12 coating.

WASTEWATER UPCOMING CONSTRUCTION PROJECTS

SD No.	Estimated Construction Value	Project Title	Anticipated Advertise Date	Brief Description of Work
436	\$19M	MWWTP Maintenance Center and Support Facilities Seismic Retrofit	August 2024	Seismic improvements to the Maintenance Center, Field Services Building, Effluent Pump Station entrance canopy, Digester Gallery roof slab, electrical substations, and key power distribution lines.
457	TBD	MWWTP Administration and Laboratory Building HVAC and Seismic Improvements	2025	Seismic, HVAC and fire protection improvements to the Administration and Laboratory Building.
440	TBD	Remote WW Facilities Improvements	2025	Improvements to three wet weather facilities and five pump stations, including recoating of wet wells, HVAC, seismic and fire protection improvements.
438	\$7M	Forcemain Access Manholes and ARV Improvements	TBD	Installation of access points to five forcemains (C, M, G, N, and R), followed by cleaning and inspection of the forcemains.
414	\$4M	MWWTP Hypo Piping Phase 3	TBD	Replacement of existing sodium hypochlorite chemical feed system and multiple dosing control headers throughout the MWWTP; replacement of PVC chlorine solution pipelines; and miscellaneous structural and electrical improvements.
453	\$8M	Alameda Interceptor Rehabilitation Phase 3	TBD	Sliplining of 2,700 linear feet of existing 60-inch interceptor reinforced concrete pipe with 54-inch FRP pipe, and manhole coating.
456	\$7M	South Interceptor Coliseum Rehabilitation	TBD	Sliplining of 2,000 linear feet of existing 63-inch and 51-inch interceptor reinforced concrete pipes with 57-inch and 46-inch FRP pipe, respectively, and manhole coating.



EXHIBIT C

IRAN CONTRACTING ACT CERTIFICATION

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

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

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

CERTIFICATION FOR PARAGRAPH 1:

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

Firm: _____

By: _____ Date: _____
(Signature of Bidder)

Title: _____

Signed at: _____ County, State of: _____

OR

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



EXHIBIT D

CONSULTING AND PROFESSIONAL SERVICES AGREEMENT FOR EAST BAY MUNICIPAL UTILITY DISTRICT

Wastewater Department As-Needed Construction Management and Inspection Support Services

THIS Agreement is made and entered into this _____ day of (*month*), 2024, 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."

V. WITNESSETH

WHEREAS, DISTRICT requires consulting services for *As-Needed Construction Management and Inspection Support Services*; and

WHEREAS, CONSULTANT has submitted a proposal to provide consulting services for *As-Needed Construction Management and Inspection Support Services* for the *various District Capital Improvement Projects* 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 ***Construction Management and Inspection*** profession and that CONSULTANT is the engineer in responsible charge of the work for all activities performed under this Agreement. Acceptance by DISTRICT of the work performed under this Agreement does not operate as a release of CONSULTANT from such professional responsibility for the work performed.
- 1.4 CONSULTANT agrees to maintain in confidence and not disclose to any person or entity, without DISTRICT's prior written consent, any trade secret or confidential information, knowledge or data relating to the products, process, or operation of DISTRICT. CONSULTANT further agrees to maintain in confidence and not to disclose to any person or entity, any data, information, technology, or material developed or obtained by CONSULTANT during the term of this Agreement. The covenants contained in this paragraph shall survive the termination of this Agreement for whatever cause.
- 1.5 The originals of all computations, drawings, designs, graphics, studies, reports, manuals, photographs, videotapes, data, computer files, and other documents prepared or caused to be prepared by CONSULTANT or its subconsultants in connection with these services shall be delivered to and shall become the exclusive property of DISTRICT. DISTRICT is licensed to utilize these documents for DISTRICT applications on other projects or extensions of this project, at its own risk. CONSULTANT and its subconsultants may retain and use copies of such documents, with written approval of DISTRICT.

- 1.6 CONSULTANT is an independent contractor and not an employee of DISTRICT. CONSULTANT expressly warrants that it will not represent that it is an employee or servant of DISTRICT.
- 1.7 CONSULTANT is retained to render professional services only and all payments made are compensation solely for such services as it may render and recommendations it may make in carrying out the work.
- 1.8 It is further understood and agreed by the parties hereto that CONSULTANT in the performance of its obligations hereunder is subject to the control or direction of DISTRICT as to the designation of tasks to be performed, the results to be accomplished by the services hereunder agreed to be rendered and performed, and not the means, methods, or sequence used by the CONSULTANT for accomplishing the results.
- 1.9 If, in the performance of this agreement, any third persons are employed by CONSULTANT, such person shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. All terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by CONSULTANT, and DISTRICT shall have no right or authority over such persons or the terms of such employment.
- 1.10 It is further understood and agreed that as an independent contractor and not an employee of DISTRICT, neither the CONSULTANT nor CONSULTANT's assigned personnel shall have any entitlement as a DISTRICT employee, right to act on behalf of DISTRICT in any capacity whatsoever as agent, nor to bind DISTRICT to any obligation whatsoever. CONSULTANT shall not be covered by DISTRICT's worker's compensation insurance; nor shall CONSULTANT be entitled to compensated sick leave, vacation leave, retirement entitlement, participation in group health, dental, life or other insurance programs, or entitled to other fringe benefits payable by DISTRICT to employees of DISTRICT.

ARTICLE 2 - COMPENSATION

- 2.1 For the Scope of Services described in Exhibit A, DISTRICT agrees to pay CONSULTANT actual costs incurred, subject to a Maximum Cost Ceiling of **\$(dollars)**. Compensation for services shall be in accordance with the method and amounts described in Exhibit B, attached hereto and incorporated herein. CONSULTANT acknowledges that construction work on public works projects requires DIR registration and is subject to prevailing wage rates and includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work. CONSULTANT certifies

that the proposed cost and pricing data used herein reflect the payment of prevailing wage rates where applicable and are complete, current, and accurate.

- 2.2 In case of changes affecting project scope resulting from new findings, unanticipated conditions, or other conflicts or discrepancies, CONSULTANT shall promptly notify DISTRICT of the identified changes and advise DISTRICT of the recommended solution. Work shall not be performed on such changes without prior written authorization of DISTRICT.

ARTICLE 3 - NOTICE TO PROCEED

- 3.1 This Agreement shall become effective upon execution of the second signature. CONSULTANT shall commence work upon receipt of DISTRICT's Notice to Proceed, which shall be in the form of a letter signed by DISTRICT's Project Manager. DISTRICT's Notice to Proceed will authorize the Contracted Services described in Exhibit A with ceiling prices described in ARTICLE 2 – COMPENSATION. No work shall commence until the Notice to Proceed is issued.
- 3.2 DISTRICT may at its option issue a Notice to Proceed for some or all of the Optional Services tasks described in Exhibit A. Compensation for Optional Services shall be in accordance with the method and amounts described in Exhibit B.

ARTICLE 4 - TERMINATION

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

ARTICLE 5 - PROJECT MANAGERS

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

ARTICLE 6 - CONTRACT EQUITY PROGRAM COMPLIANCE

- 6.1 CONSULTANT expressly agrees that this Agreement is subject to DISTRICT's Contract Equity Program ("CEP"). CONSULTANT is familiar with the DISTRICT's CEP and Equal Opportunity Guidelines, and has read and understood all of the program requirements. CONSULTANT understands and agrees to comply with the CEP and all requirements therein, including each of the Good Faith Efforts. CONSULTANT further understands and agrees that non-compliance with the CEP requirements may result in termination of this Agreement.
- 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 It is agreed and understood by CONSULTANT and DISTRICT that the design services have been completed by *the District or a design firm hired by the District* 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

REFERENCE EXHIBIT E OF THIS RFP FOR 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:

Amit Mutsuddy, Director of Wastewater

P.O. Box 24055

Oakland, CA 94623-1055

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

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

ARTICLE 9 - MISCELLANEOUS

- 9.1 This Agreement represents the entire understanding of DISTRICT and CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may only be modified by amendment in writing signed by each party.
- 9.2 This Agreement is to be binding on the successors and assigns of the parties hereto. The services called for herein are deemed unique and CONSULTANT shall not assign, transfer or otherwise substitute its interest in this Agreement or any of its obligations hereunder without the prior written consent of DISTRICT.
- 9.3 Should any part of this Agreement be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond the

authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement can be interpreted to give effect to the intentions of the parties.

- 9.4 Multiple copies of this Agreement may be executed by the parties and the parties agree that the Agreement on file at the DISTRICT is the version of the Agreement that shall take precedence should any differences exist among counterparts of the Agreement.
- 9.5 This Agreement and all matters relating to it shall be governed by the laws of the State of California.
- 9.6 The District's waiver of the performance of any covenant, condition, obligation, representation, warranty or promise in this agreement shall not invalidate this Agreement or be deemed a waiver of any other covenant, condition, obligation, representation, warranty or promise. The District's waiver of the time for performing any act or condition hereunder does not constitute a waiver of the act or condition itself.
- 9.7 There shall be no discrimination in the performance of this contract, against any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, gender including gender identity or expression, age, marital or domestic partnership status, mental disability, physical disability (including HIV and AIDS), medical condition (including genetic characteristics or cancer), veteran or military status, family or medical leave status, genetic information, or sexual orientation. CONSULTANT shall not establish or permit any such practice(s) of discrimination with reference to the contract or any part. CONSULTANTS determined to be in violation of this section shall be deemed to be in material breach of this Agreement.

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

CONSULTANT shall include the nondiscrimination provisions above in all subcontracts.

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

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

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

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

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

ARTICLE 10 - TERM

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

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

EAST BAY MUNICIPAL UTILITY DISTRICT

By: _____
Amit Mutsuddy,
Director of Wastewater

Date _____

Approved As To Form

By: _____
for the Office of the General Counsel

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

By: _____
(Name),
(Title)

Date _____

EXHIBIT A

**East Bay Municipal Utility District
Wastewater Department As-Needed Construction Management and Inspection Support
Services**

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 *Wastewater Department As-Needed Construction Management and Inspection Support Services*

COMPENSATION

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

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

2.1 Direct Labor

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

2.2 Indirect Costs

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

- Clerical, word processing and/or accounting work.
- Vehicle usage and mileage between CONSULTANT's office and DISTRICT offices or work locations within DISTRICT service area. For work outside of the DISTRICT's services area, DISTRICT

approval to charge for vehicle usage and mileage and other travel expenses must be obtained prior to the expenses being incurred.

- Parking (DISTRICT does NOT provide parking to CONSULTANT in the DISTRICT Administration Building, located at 375 11th Street, Oakland, California. CONSULTANT shall be responsible for parking elsewhere).
- Postage, or for certified or registered mail. Extraordinary postage, overnight delivery, or messenger delivery charges must be approved in advance.
- Routine copying costs for in-house copying.
- Local telephone charges, including cellular phone, modem and telecopier/FAX charges.
- Office space lease.
- Office supplies.
- Computer equipment.
- Computer usage charges.
- Books, publications and periodicals.
- Insurance.
- Miscellaneous hand tools or equipment rental.
- Safety training, seminars or continuing education.
- Utilities.
- Local meals, transportation or other travel charges.
- Inadequately described or miscellaneous expenses.

The above items are illustrative, rather than exhaustive.

2.3 Subconsultant Services

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

2.4. Other Direct Costs

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

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

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

- Each expense is separately identified (air fare, hotel, rental car) with an amount and date incurred. Confirming documents may be requested.
- Charged mileage for vehicle mileage shall not exceed the current allowable Internal Revenue Service rate.
- Air travel is coach or economy rate for refundable tickets. Business and first class rates will not be reimbursed.
- Lodging accommodations are moderately priced.
- Meal charges are reasonable. (Reimbursement for meals will only be made in conjunction with out-of-town travel.)
- Taxis or shuttles are used rather than rental cars whenever cost effective.
- Rental cars are intermediate or compact class only.

2.6 Budget Amounts

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

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

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

2.6 Billing and Payment

CONSULTANT shall invoice DISTRICT monthly for the actual costs incurred for work performed during the previous month. Actual costs shall include Direct Labor, Indirect Costs, Subconsultant Services, and Other Direct Costs as specified herein. Actual costs shall be invoiced by task as

described in Exhibit A. Invoices shall set forth a description of the actual costs incurred and the services performed, the date the services were performed and the amount of time spent rounded to the nearest quarterly hour increment (.25) on each date services were performed and by whom. Supporting documentation for the invoice shall be organized to clearly identify the task charged and shall be supported by such copies of invoices, payroll records, and other documents as may be required by DISTRICT to authenticate invoiced costs. Copies of all invoices from any subconsultant(s) and outside service(s) shall be attached. Where CONSULTANT is required by law to pay prevailing wage rates, supporting documentation for such work shall be in accordance with guidelines set forth below and shall include certified payroll reports. DISTRICT shall pay CONSULTANT within thirty (30) days, upon receipt of a proper CONSULTANT invoice, (*Optional insert - include the following words here only if retention will be accumulated: "the amount invoiced less a ten percent (10%) retention amount,"*), provided that all invoices are accompanied by sufficient cost documentation, and DISTRICT Form P-47 (Subcontractor Payment Report - CEP Participation), to allow the determination of the reasonableness and accuracy of said invoice. (*Optional insert - include the following sentence here only if retention will be accumulated: "The retention accumulated to date shall be paid by DISTRICT upon DISTRICT's acceptance of the final version of all documents specified in ARTICLE 1 - SCOPE OF WORK, paragraph 1.6."*)

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

2.7 Budget Status Reports

For the duration of this Agreement, the CONSULTANT shall provide DISTRICT with (*"bi-weekly" or "monthly" depending on duration of project*) budget status reports that include, in tabular or graphical format, for each report period: (1) the original cumulative projected cash flows for the duration of the project (prepared at the start of the project), (2) the

actual cash flows for the work completed to date, (3) the current projected cash flows to complete the project, and (4) the earned value (the amount of work actually completed to date compared to the budget expended). Current projected cash flows shall be based on all CONSULTANT and subconsultant time sheets up to a date within 3 weeks of the date of the budget status report.

2.8 Prevailing Wages and Other Requirements for Construction Inspection, and Construction Related Work During Design and Preconstruction Phases of Construction.

- 2.8.1 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).
- 2.8.2 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).
- 2.8.3 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.
- 2.8.4 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.
- 2.8.5 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.

- 2.8.6 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.
- 2.8.7 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.
- 2.8.8 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
- 2.8.9 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.

- 2.8.10 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.
- 2.8.11 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.
- 2.8.12 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.
- 2.8.13 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.
- 2.8.14 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.

2.8.15 The Contractor and every Subcontractor shall post at the workplace and comply with all required wage related workplace postings. Copies of the required postings may be downloaded or ordered electronically from the Department of Industrial Relations website at <http://www.dir.ca.gov/wpnodb.html>.

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

EXHIBIT B-1

**East Bay Municipal Utility District
Wastewater Department As-Needed Construction Management and Inspection Support Services**

VI. 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.)

VII. EXHIBIT B-2

**East Bay Municipal Utility District
Wastewater Department As-Needed Construction Management and Inspection Support Services**

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 Wastewater Department As-Needed Construction Management and Inspection Support Services

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**

REFERENCE EXHIBIT E OF THIS RFP FOR INSURANCE REQUIREMENTS



EXHIBIT E

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 E to the DISTRICT. The Exhibit E may be signed by an officer of the CONTRACTOR (Agent) or by the Insurance Broker for the CONTRACTOR. CONTRACTOR shall update Exhibit E throughout the specified term of the insurance required by this Agreement by resubmitting the completed Exhibit E prior to the expiration date of any of the required insurance. The updated Exhibit E shall become a part of the Agreement but shall not require a change order to the Agreement. The Notice to Proceed shall not be issued, and CONTRACTOR shall not commence Services until such insurance has been accepted by the DISTRICT.
- C. CONTRACTOR shall carry and maintain the minimum insurance requirements as defined in this Agreement. CONTRACTOR shall require any subcontractor to carry and maintain the minimum insurance required in this Agreement to the extent they apply to the scope of the services to be performed by subcontractor.
- D. Acceptance of verification of Insurance by the DISTRICT shall not relieve CONTRACTOR of any of the insurance requirements, nor decrease liability of CONTRACTOR.
- E. The insurance required hereunder may be obtained by a combination of primary, excess and/or umbrella insurance, and all coverage shall be at least as broad as the requirements listed in this Agreement.
- F. Any deductibles, self-insurance, or self-insured retentions (SIRs) applicable to the required insurance coverage must be declared to and accepted by the DISTRICT.
- G. At the option and request of the DISTRICT, CONTRACTOR shall provide documentation of its financial ability to pay the deductible, self-insurance, or SIR.

- H. Any policies with a SIR shall provide that any SIR may be satisfied, in whole or in part, by the DISTRICT or the additional insured at its sole and absolute discretion.
- I. Unless otherwise accepted by the DISTRICT, all required insurance must be placed with insurers with a current A.M. Best's rating of no less than A- V.
- J. CONTRACTOR shall defend the DISTRICT and pay any damages as a result of failure to provide the waiver of subrogation from the insurance carrier.
- K. For any coverage that is provided on a claims-made coverage form (which type of form is permitted only where specified) the retroactive date must be shown and must be before the date of this Agreement, and before the beginning of any Services related to this Agreement.
- L. Insurance must be maintained, and updated Verification of Insurance be provided to the DISTRICT before the expiration of insurance by having CONTRACTOR's insurance broker or agent update, sign and return Exhibit E 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 E.

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

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

INSURANCE VERIFICATION DOCUMENTS

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

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

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

Self-Insured Retention Amount: \$ _____

Policy Limit: \$ _____

Policy Number: _____

Policy Period: from: _____ to: _____

Insurance Carrier Name: _____

Insurance Broker or Agent: Print Name: _____

Insurance Broker or Agent's Signature: _____

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

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

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

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

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

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

Verification of Commercial General Liability (CGL) Insurance Coverage

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

Self-Insured: Amount: \$ _____

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

Policy Number: _____

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

Insurance Carrier Name: _____

Insurance Broker or Agent: Print Name: _____

Insurance Broker or Agent's Signature: _____

III. Business Auto Liability Insurance Coverage

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

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

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

Verification of Business Auto Liability Insurance Coverage

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

Self-Insured: Amount: \$ _____

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

Policy Number: _____

Policy Period: from: _____ to: _____

Insurance Carrier Name: _____

Insurance Broker or Agent: Print Name: _____

Insurance Broker or Agent's Signature: _____

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

- A. CONTRACTOR's insurance shall be primary, and any insurance or self-insurance procured or maintained by the DISTRICT shall not be required to contribute to it.
- B. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policies or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the CONTRACTOR.
- C. Minimum Requirements: Professional Liability Insurance with minimum limits as follows:
- | | |
|---------------------------------|-------------|
| Each Claim or Occurrence Limit: | \$2,000,000 |
| Aggregate Limit: | \$2,000,000 |
- D. If Coverage is written on a claims-made form, the following shall apply:
1. The retroactive date must be shown and must be before the date of the Agreement or the beginning of the Services.
 2. Insurance must be maintained, and evidence of insurance must be provided for a minimum of three (3) years after completion of the Services.
 3. If claims-made coverage is canceled or non-renewed, and not replaced with another claims-made policies form with a retroactive date prior to the effective date of the Agreement, CONTRACTOR must purchase an extended period of coverage for a minimum of three (3) years after completion of the Services.
- E. Insurance shall include prior acts coverage sufficient to cover the services under this Agreement.
- F. Coverage shall be included for all premises and operations in any way related to this Agreement.

Verification of Professional Liability (Errors and Omissions) Insurance Coverage

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

Self-Insured: Amount: \$ _____

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

Policy Number: _____

Policy Period: from: _____ to: _____

Insurance Carrier Name: _____

Insurance Broker or Agent: Print Name: _____

Insurance Broker or Agent's Signature: _____

VI. Excess and/or Umbrella Liability Insurance Coverage

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

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

Verification of Excess and/or Umbrella Liability Insurance Coverage

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

Self-Insured: Amount: \$ _____

Policy Number: _____

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

Insurance Carrier Name: _____

Insurance Broker or Agent: Print Name: _____

Insurance Broker or Agent's Signature: _____