

REQUEST FOR PROPOSAL (RFP)

for GENERAL ENVIRONMENTAL SERVICES, RFP No. GES-2025

ADDENDA

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

CONTACT

David Behnken, Environmental Health & Safety Specialist II
(510) 287-0327
david.behnken@ebmud.com

RESPONSE DUE

Friday, February 21, 2025
12:00 PST

SUBMIT ELECTRONICALLY TO*

David Behnken, EBMUD
environmentalcompliance@ebmud.com

**Hardcopy proposals will not be accepted
Electronic submittal size limit is 10MB per email.*

EAST BAY MUNICIPAL UTILITY DISTRICT

RFP for GENERAL ENVIRONMENTAL SERVICES, RFP No. GES-2025

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I. STATEMENT OF WORK

A. INTRODUCTION AND BACKGROUND

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

The District is soliciting proposals for a General Environmental Services (GES) contractor. We are seeking technical proposals from contractors that can provide an experienced team to perform a wide range of environmental services as part of the District’s Regulatory Compliance program. A more detailed description of these activities is provided in Section B, Scope and Requirements. Historically, the majority of the work has occurred within Alameda and Contra Costa counties on a non-time critical nature; however, the contractor shall have the capabilities to respond to time critical tasks in all geographic areas with District operations.

The District intends to select one or more contractor(s) to provide these environmental services on an “as-needed” basis. Due to the broad scope of possible projects, the District expects the contractor to be prepared to provide reliable expertise as needed. The GES contractor may act as the prime contractor and project manager for any outside services, subcontractor, or subcontractors needed to fulfill the entire scope of services. In that case, the GES contractor will be fully responsible for assuring the quality, cost control, and timeliness of work of any subcontractors.

B. SCOPE AND REQUIREMENTS

East Bay Municipal Utility District (District) intends to award a three (3) year contract, for an estimated amount of \$1,000,000 per year with the option to extend the contract to two, one (1) year periods, for a total duration of up to five (5) years. The District makes no guarantees concerning the actual quantity or type of work that will result from this procurement. The contract will be awarded to the Proposer(s) who best meets the District’s requirements.

The Scope of Work is to provide general environmental services to the District on an as-needed basis that could require an occasional rapid response and resolution, but could also include non-time critical projects requiring several months of ongoing level of effort. The types of services (complexity and diversity) will vary, and the GES contractor must be capable of completing multiple (simultaneous or sequential) investigations and reports and meeting multiple deadlines. In some cases, subcontracting specialty

contractors to support projects and/or operations may be required by the contractor. The tasks may be defined in three very broad categories:

- Activities requiring immediate mobilization (emergency response)
- Investigation and/or remediation projects of various types
- Technical consulting and report / plan preparation

The contractor shall be capable of supporting all environmental programs which the District must comply with and demonstrate familiarity in working with the appropriate federal, state, and local regulatory agencies. These include, but are not limited to the following environmental programs:

- Point source wastewater discharges
- Potable water discharges
- Hazardous air pollutants
- Hazardous materials and hazardous waste management (including fuel tanks)
- Due diligence compliance and audits
- Storm water management
- Soil and groundwater management
- Trench soil pre-characterization

Except for activities requiring immediate response to emergencies, all contract projects will first require a time and material cost proposal approved by the District. Project cost proposals are not to be exceeded according to the proposed costs for individual project task(s), unless approved by the District GES contract manager or assigned District project manager. The types of services will vary in complexity and depth of expertise and the contractor must provide all the expertise, labor, and materials to complete various investigations and reports on time. The three main Task Order categories are described below:

1. **Emergency Response:** The primary responsibility of this project is to provide 24 hours/7 days a week emergency response in the event of a release of hazardous materials or other emergencies. The contractor shall mobilize staff and equipment within two hours for items that require immediate response to the District emergencies. These could include:
 - Emergency response to releases and spills of hazardous materials, including containment, identification, transportation and disposal activities.
 - Pumping and hauling of sewage from wastewater ponds or sewer overflows.
 - Environmental sampling (includes air, surface water, wastewater, soil, groundwater) to document potential environmental, health, and safety impacts.

The contract requires a single point of contact for District staff in the event of an emergency as illustrated above. A single contact person is preferable. In the event that

this person is not available, an alternate person(s) who is familiar with on-going projects should be assigned as an alternate point of contact. This contact person(s) shall be in communication by phone 24 hours/day, 7 days/week, and verbally respond within 30 minutes by phone.

2. **Investigation and Remediation Projects:** The following are some examples of investigation and remediation projects:

- Conduct Phase I and Phase II due diligence environmental assessments, and other assessments including natural resource surveys (biological, cultural, etc.).
- Conduct Underground Storage Tank (UST) petroleum hydrocarbon related soil and groundwater investigations.
- Develop and implement appropriate plans in areas where Land Use Covenants are in place.
- Collect and analyze soil and/or shallow groundwater samples during trenching and transport and dispose of contaminated soils and groundwater to appropriate disposal facilities.
- Collect samples from monitoring/injection wells.
- Perform drilling investigations to characterize soils prior to excavations.
- Prepare human health/ecological risk assessments.
- Conduct biological/aquatic surveys of surface water bodies.
- Perform environmental projects for CEQA mitigations.
- Prepare and obtain jurisdictional permits (Army Corps, Regional Water Quality Control Board, California Department of Fish and Wildlife, etc.) for District projects.
- Research regulatory requirements and determine applicability to District operations.
- Implement Best Management Practices selection for erosion and sediment control.
- Identify and collect bulk samples for analysis of lead, polychlorinated biphenyls, mold, and asbestos containing materials.
- Conduct soil and groundwater remediation at contaminated sites.
- Conduct audits of waste disposal facilities that the District may utilize.
- Conduct industrial hygiene support, including indoor air quality assessments.
- Conduct work zone and work zone perimeter air monitoring and sampling as necessary for District projects.
- Cleanup of biological and/or sanitary hazards, including homeless encampment wastes.
- Provide other environmental services that may be requested to support District operations and maintenance or capital projects.

3. **Technical Consulting and Report/Plan Preparation:** Specialized experts may be required intermittently throughout the contract period. Examples include licensed Professional Engineers, Professional Geologists, Certified Industrial Hygienists, or other specialized certification. The GES contractor must demonstrate an understanding of field stormwater applications and related

permitting issues. A qualified contractor must possess all registrations necessary to be a Qualified SWPPP Developer (QSD) and a Qualified SWPPP Practitioner (QSP), as defined in the State Water Resources Control Board's Construction General Permit for stormwater. Technical consulting and reporting may include the following:

- Spill Prevention, Control and Countermeasures (SPCC) plans and certification
- Risk Assessments for contaminated sites
- Regulatory policy review
- Total maximum daily load studies (e.g. methyl mercury)
- Fate/transport hydraulic mixing modeling
- Wetlands or biological surveys
- Vulnerability assessment
- Human health/ecological risk assessments
- Consultation and reporting related to California Accidental Release Prevention (CAL ARP) program facilities
- Risk management analyses and plans with applicable certification
- Industrial hygiene reports
- Storm water Pollution Prevention Plans (SWPPPs)
- Interpretations of environmental and health and safety regulations
- Permit applications (e.g.: Air permits, jurisdictional water permits, marsh crust permits)
- Pre-characterization and reuse options for trench soils
- Provide other environmental services that may be requested to support District operations and maintenance or capital projects.

C. PROPOSER QUALIFICATIONS

1. Proposer Minimum Qualifications

- a. Proposer, Proposer's principal, or Proposer's staff shall have been regularly engaged in the business of providing environmental services for at least five years.
- b. Proposer shall have a professional engineer and a professional geologist on staff or part of the team bidding on the project.
- c. Proposer shall possess all permits, licenses, and professional credentials necessary to perform services as specified under this RFP.

D. SPECIFIC REQUIREMENTS

Certain projects will arise from unanticipated events and require immediate attention. In addition, projects may overlap such that there may be several projects underway at any given time. Thus, the successful proposal should demonstrate tracking and

organizational skills as well as the structural flexibility and resources to enable the project team to respond quickly and handle more than one project simultaneously. Historically in past contracts, the level of effort for emergency response work has been less than 5% of the total contract size. The average size of single, less complex assignments varied from \$5,000 to \$20,000. An example of a more complex, long-term investigation could be closer to \$100,000.

The GES contractor must be available on-call 24 hours/day, 7 days/week, must respond by telephone within 30 minutes, and mobilize appropriate staff to the incident as soon as possible. In some cases, emergency responders need to be available onsite within 2 hours.

Proposer shall have prequalified contractor(s) permitted and/or licensed for the hauling and disposal of both RCRA and non-RCRA hazardous waste.

If the Proposer is planning to team up with subcontractors or subconsultants to provide all before mentioned services, the Proposer shall identify team members and their roles in the proposal.

Except for activities requiring immediate response to emergencies, all contract projects will first require a time and material cost proposal approved by the District.

E. **DELIVERABLES / REPORTS**

Candidates must demonstrate the ability to provide technical reports summarizing investigation results, interpreting complex data, and containing conclusions and recommendations. All prepared documents shall comply with regulatory requirements for submittal to federal, state, or local agencies. Reports should present data in tables, graphs, figures, or other format for ease of presentation and understanding. Document management and control tools should be easily accessible to multiple District project managers for review of draft and final versions. Electronic versions should be considered for cost savings to the extent possible. Types of reports include data presentation reports, results of studies or inspections/audits, technical memorandum, or certified reports stamped by a qualified scientist or engineer.

Additionally, administrative reports may include contract project status and contract equity reports.

II. **CALENDAR OF EVENTS**

EVENT	DATE/LOCATION
RFP Issued	February 3, 2025
RFP Questions Due	February 10, 2025 by 4:00pm PST

RFP Response Due	February 21, 2025 by 12:00pm PST
Tentative Oral Interviews	The week of March 4, 2025
Anticipated Contract Start Date	July 1, 2025

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

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

III. DISTRICT PROCEDURES, TERMS, AND CONDITIONS

A. RFP ACCEPTANCE AND AWARD

1. RFP responses will be evaluated by the Selection Committee and will be scored and ranked in accordance with the RFP section entitled "Evaluation Criteria/Selection Committee."
2. Selected Proposers may be invited to an oral interview panel after RFPs are received and evaluated to help facilitate the selection of the future contractor(s). The target date for this oral interview panel is the week of March 4, 2025.
3. The Selection Committee will recommend award to the Proposer who, in its opinion, has submitted the RFP response that best serves the overall interests of the District. Award may not necessarily be made to the Proposer with the lowest overall cost.
4. 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.
5. The District has the right to decline to award this contract or any part of it for any reason.
6. 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.
7. 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 and oral panel interviews will be evaluated by a Selection Committee. The Selection Committee may be composed of District staff and other parties that have expertise or experience in this type of procurement. The Selection Committee will select a Proposer in accordance with the evaluation criteria set forth in this RFP. The evaluation of the RFP responses shall be within the sole judgment and discretion of the Selection Committee.

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

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

The Evaluation Criteria are as follows:

	Evaluation Criteria
A.	Technical Criteria: Technical Capabilities – a comparison will be made of the proposed services with the technical requirements of this RFP. Credit will be given for technical expertise of the proposed team members and the technical approach to the proposal and scenarios.
B.	Cost: Given the contract's open cost structure for as-needed assignments, the Proposer's approach toward ensuring cost accountability will be evaluated. Important considerations include billing rates and availability of relevant equipment and resources. The points for Cost will be computed by dividing the amount of the lowest responsive RFP response received by each Proposer's total proposed cost. While not reflected in the Cost evaluation points, an evaluation may also be made of: 1. Reasonableness (i.e., does the proposed pricing accurately reflect the Proposer's effort to meet requirements and objectives?);

	<p>2. Realism (i.e., is the proposed cost appropriate to the nature of the products and services to be provided?); and</p> <p>3. Affordability (i.e., the ability of the District to finance this project).</p> <p>Consideration of price in terms of overall affordability may be controlling in circumstances where two or more RFP responses are otherwise judged to be equal, or when a superior RFP response is at a price that the District cannot afford.</p>
C.	<p>Relevant Experience: RFP responses will be evaluated against the RFP specifications and the questions below:</p> <ol style="list-style-type: none"> 1. Do the individuals assigned to the project have experience on similar projects? 2. Are résumés complete and do they demonstrate backgrounds that would be desirable for individuals engaged in the work the project requires? 3. How extensive is the applicable education and experience of the personnel designated to work on the project?
D.	<p>References (See Exhibit A – RFP Response Packet): If a short list process is used for a solicitation, references are only performed on the shortlisted Proposers and the score for reference checks is not included in the preliminary short list score.</p>
E.	<p>Oral Presentation and Interview: The oral interview may consist of standard questions asked of each of the Proposers and specific questions regarding the specific RFP response.</p>
F.	<p>Understanding of the Scope of Services: RFP responses will be evaluated against the RFP specifications and the questions below:</p> <ol style="list-style-type: none"> 1. Has the Proposer demonstrated a thorough understanding of the purpose and scope of the project? 2. How well has the Proposer identified pertinent issues and potential problems related to the project? 3. Has the Proposer demonstrated that it understands the deliverables the District expects it to provide? 4. Has the Proposer demonstrated that it understands the District’s time schedule and can meet it?
G.	<p>Methodology: RFP responses will be evaluated against the RFP specifications and the questions below:</p> <ol style="list-style-type: none"> 1. Does the methodology depict a logical approach to fulfilling the requirements of the RFP?

	2. Does the methodology match and contribute to achieving the objectives set out in the RFP? 3. Do the responses meet regulatory requirements and industry practices? 4. Are the responses cost effective?
H.	Contract Equity Program: Proposer shall be eligible for SBE or DVBE preference points if they are a certified small business entity, as described in the guidelines contained in Exhibit A-Contract Equity Program, <u>and</u> they check the appropriate box, requesting preference, in Exhibit A-Proposer Information and Acceptance. Qualified DVBEs and/or SBEs will receive an additional 5 points to their total score.

C. PRICING

- Prices quoted shall be firm for the first 24 months of any contract that may be awarded pursuant to this RFP.
- All prices quoted shall be in United States dollars.
- Price quotes shall include any and all payment incentives available to the District.
- Proposers are advised that in the evaluation of cost, if applicable, it will be assumed that the unit price quoted is correct in the case of a discrepancy between the unit price and extended price.
- Prevailing Wages:

All Contractors 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 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 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, 1010 Franklin St., Oakland, CA 94607 or P.O. Box 24055, Oakland, California 94623. Facsimile and electronic mail protests must be followed by a mailed or hand delivered identical copy of the protest and must arrive within the seven workday time limit. Any proposal protest filed with any other District office shall be forwarded immediately to the Manager of Purchasing.

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

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

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

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

E. INVOICING

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

3. Invoices shall contain District purchase order number, invoice number, remit to address, itemized services description,
4. Invoice billing backup shall include receipts for project specific materials and equipment purchased or rented, and receipts for permits acquired. Billing backup shall also be provided by all subcontractors.
5. Each invoice shall include a clear and concise task order budget summary.
6. The District will pay General or Professional Service Provider in an amount not to exceed the negotiated amount(s) which will be referenced in the agreement signed by both parties.

IV. RFP RESPONSE SUBMITTAL INSTRUCTIONS AND INFORMATION

A. DISTRICT CONTACTS

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

FOR INFORMATION REGARDING TECHNICAL SPECIFICATIONS:
Attn: David Behnken, Environmental Health & Safety Specialist II
EBMUD Environmental Compliance
E-Mail: david.behnken@ebmud.com
PHONE: (510) 287-0327

(Questions must be submitted in writing by 4:00pm on February 10, 2025)

FOR INFORMATION ON THE CONTRACT EQUITY PROGRAM:
Attn: Contract Equity Office
PHONE: (510) 287-0114

AFTER AWARD:
Attn: David Behnken, Environmental Health & Safety Specialist II
EBMUD Environmental Health
E-Mail: david.behnken@ebmud.com
PHONE: (510) 287-0327

B. SUBMITTAL OF RFP RESPONSE

1. At this time, no hardcopy proposals will be accepted. Upload your RFP response in pdf format and prior to the bid due date/time RFP submittals, in their entirety, shall be emailed to environmentalcompliance@ebmud.com. The District's email has limitations on attachment size. Make sure your response is 10 megabytes or

less. If the submittal exceeds this limit, you will need to submit multiple emails. Proposers are solely responsible for ensuring timely delivery of the proposals. The District shall not be responsible for any issues related to transfer of files through email. You may call David Behnken at (510) 287-0327 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, E, F, or G, or qualify their RFP responses. Proposers shall not submit to the District a re-typed or otherwise re-created version of these documents or any other District-provided document.**
2. RFP responses, in whole or in part, are NOT to be marked confidential or proprietary. The District may refuse to consider any RFP response or part thereof so marked. RFP responses submitted in response to this RFP may be subject to public disclosure. The District shall not be liable in any way for disclosure of any such records.

D. SCENARIOS

Three scenarios of actual or hypothetical projects requiring general environmental services (GES) are presented below. For each scenario, prepare a detailed scope of services and schedule, including actions to be performed, regulatory & health and safety concerns, recommendations for any immediate District actions, and key assumptions. For each scenario, identify who in your project team, among your subconsultants, subcontractors, or any other outside resources would be assigned to this project, describe their experience with this type of project, including why you selected them. Describe how, and by whom, communication with the District will be handled. Identify the location of any equipment to be mobilized and whether it is owned or leased.

SCENARIO 1 - Leaking UST and Tank Replacement

EBMUD has contacted the Project Manager to request assistance in the assessment, response, and replacement of a leaking underground diesel tank at the South Area Service Yard at 589 East Lewelling Blvd, San Lorenzo, CA 94580. The known information about the leak is below.

- The tank is 8,000 gallons and contains renewable diesel for a vehicle fueling facility
- A leak alarm on the tank monitoring system was found at 4:00pm on 3/15/2025
- The UST was placed out of service and no fueling occurred
- The following morning on 3/16/2025, the tank level has dropped by 150 gallons
- The tank is 45 years old, and the last secondary containment test was done 27 months ago
- Construction on a nearby building is underway and EBMUD staff suspects ground vibrations due to heavy construction may have caused a major failure of the tank system

EBMUD is requesting assistance with the following tasks:

1. Emergency/Leak Response
 - Regulatory notifications for leak
 - Leak investigation technique (assume a portion of the leak is impacting soil)
 - Response actions to mitigate leak
 - Management of any wastes or diesel removed
2. Tank Replacement

Due to age of tank, EBMUD wants to remove it

 - Draft closure plan for tank including the following elements
 - I. Work plan

- II. Sampling plan
- III. Permitting/regulatory needs
- IV. Waste management
- V. Safety requirements

- Provide estimated project schedule scoping out time for each step of UST removal

SCENARIO 2 – Storm Water Violation at District Owned Storage Site for Soil

The District generates approximately 150,000 cubic yards per year of trench soils excavated during the course of pipeline installations and maintenance work. Non-contaminated trench soils are temporarily stockpiled at one of three active District-owned storage sites (DOSS). Activities at the DOSS are currently permitted by the existing Construction General Permit (CGP; Order No. 99-08-DWQ) for storm water.

The DOSS at Miller Rd. in Castro Valley (located at 37.760112, -122.089712) has a storm water outfall adjacent to San Leandro Creek. A hiker on a local trail observed significant sediment flowing from the soil stockpile towards the Upper San Leandro Reservoir through the storm water outfall. Two small slope failures (25' x 50') were also noted immediately adjacent to the storm water outfall in the soil stockpile. The issue was reported to the Regional Water Quality Control Board (RWQCB) and resulted in a storm water violation issued to the District. The RWQCB has requested a written corrective action plan to be submitted in response to the violation.

Describe how you would approach the scenario. Where applicable, include information on regulatory requirements, permits, personnel requirements, technical approaches for response action, and a projected schedule for completion.

SCENARIO 3 – In-Situ Soil Sampling and Waste Characterization

A large diameter water main replacement project is scheduled to occur in 12 months at the former Oakland Army Base, in Maritime St, from Burma Rd., to West 14th St. The expected excavation for this project is 2,750 ft long, 2.5 ft wide, and 5.5 feet deep. None of the soil can be stockpiled in the area due space constraints. The soil must be direct hauled to an appropriate disposal site during construction.

The District has requested a written sampling proposal to review prior to sampling. At the end of the project, a written report that could be placed to advise District staff performing the work and contractor support, will be required. Describe your approach to this project which addresses the following topics:

- a. Sampling plan including sample quantity, location and type;

- b. Analysis to be done;
- c. Field sampling practices and techniques;
- d. Permitting (if any) required for sampling; and disposal recommendations:
assume trench soils excavated northeast of Vukasin Way towards Burma Rd. 20% were characterized as non-RCRA hazardous waste, and the remaining soil exceeded construction work screening levels for lead, arsenic, perfluorinated alkylated substances, and benzene. Assume trench soils excavated southeast of Vukasin Way to West 14th St. were all characterized as class II waste, less than construction worker screening levels.



EXHIBIT A

RFP RESPONSE PACKET

RFP For GENERAL ENVIRONMENTAL SERVICES, RFP No. GES-2025

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”**
 - **INCLUDE ALL REQUIRED FORMS WITHIN EXHIBIT A**
- **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_____



BILLING RATES

Provide copies of proposed billing rates for professional, technical and support staff, and relevant equipment and material costs. Receipts for project specific materials and equipment purchased or rented, include permits acquired, will be provided as billing backup. Specify overhead rate and profit as a percentage of direct labor costs and markup on other direct costs including sub-consultants or subcontractors. The prices quoted shall not include Sales Tax or Use Tax; said tax, wherever applicable, will be paid by the District to the General or Professional Service Provider, if licensed to collect, or otherwise directly to the State.



REQUIRED DOCUMENTATION AND SUBMITTALS

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

Letter of Transmittal (3)

Key Personnel (10)

Description of the Proposed Equipment (6)

Scenarios for the Proposed Services (3 pages per scenario, 9 total pages)

Billing Rates and Cost Control (5)

Evidence of Qualification (5)

Sustainability Statement (2)

References (2)

Exceptions, clarifications, amendments (3)

Contract Equity forms as enclosed

Sample Contract as enclosed.

1. **Letter of Transmittal:** RFP response shall include a description of the Proposer's capabilities and approach in providing its services to the District, and provide a brief synopsis of the highlights of the RFP response and overall benefits to the District. The response should also highlight the team and its special qualities that reviewers should note as they read the proposal in detail. It must clearly identify the lead firm, location of offices, number of total and project staff, years in business, and key capabilities and resources related to this project. It must identify the Project Manager, who is available for this contract. The letter shall be signed by an individual having authority to execute an agreement with the District. This synopsis should not exceed three (3) pages in length and should be easily understood.
2. **Key Personnel:** RFP response shall include a complete list of all key personnel assigned to the GES contract. This list must include all key personnel who will provide services/training to District staff and all key personnel who will provide maintenance and support services. Describe their experience, qualifications, and identify their role. Describe previous projects completed in conjunction with any designated sub-contractors and characterize your working relationships and agreements. Describe how additional expertise that is indicated in the scope of services and the scenarios would be obtained, if that expertise is not included in the team members. Provide professional resumes for key management and technical staff. For each person on the list, the following information shall be included:

- (a) The person's relationship with the Proposer, including job title and years of employment with the Proposer;
 - (b) The role that the person will play in connection with the RFP;
 - (c) The person's telephone number, fax number, and e-mail address;
 - (d) The person's educational background; and
 - (e) The person's relevant experience, certifications, and/or merits
3. **Description of the Proposed Equipment/System:** RFP response shall indicate the locations, types, and number of pieces of equipment available to the project team on short notice to meet the District's Emergency Response needs. Indicate whether equipment is owned or leased and which firm owns the equipment.
4. **Scenarios for Proposed Services:** Three scenarios of actual or hypothetical projects requiring general environmental services are given on pages 16 through 18. For each scenario, in addition to answering the specific questions following each scenario, prepare a detailed scope of services and schedule including actions to be performed, regulatory & health and safety concerns, recommendations for any immediate District actions, and key assumptions. For each scenario, identify who in your project team, among your sub-consultants and subcontractors, or any other outside resources would be assigned to this project, describe their experience with this type of project and state why you selected them, and describe how, and by whom, communication with the District will be handled.
5. **Billing Rates and Cost Controls:** Mechanisms to ensure cost control are essential. Provide a description of the project management methods that will be used to track and control costs and schedules. Include proposed billing rates for professional, technical and support staff, equipment rental schedules, relevant material costs. Receipts for project specific materials and equipment purchased or rented, including permits acquired, will be provided as billing backup will allow billing at cost plus a 5 percent markup. Specify overhead rate and fees as a percentage of direct labor costs, markup on other direct costs including subcontractors or sub-consultants. Provide labor and material rates for any subcontractors whose assistance will be needed to provide the required services. The District will allow sub-consultant or sub-contractors services billing at cost plus a 5 percent markup.
6. **Evidence of Qualification Testing:** Provide a listing of projects for which the firm(s) has provided services relevant to the General Environmental Services project. Include the project name, a brief project description, respondent's specific role(s), start and completion dates, and contract dollar value. Include references with names and telephone numbers of those who can verify the quality of work. This section should not exceed five (5) pages in length.
7. **Sustainability Statement:** Contractors shall submit a statement regarding any sustainable, environmental or socially responsible initiatives or practices that they or their suppliers engage in. This information can be in relation to the specific services or work products solicited via this RFP, or in relation to the manufacture, delivery, or business practices of your firm.

8. **References:**

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

9. **Exceptions, Clarifications, Amendments:**

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

10. **Contract Equity Program:**

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



REFERENCES
RFP For General Environmental Services, RFP No. GES-2025

Proposer Name: _____

Proposer must provide a minimum of three references.

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

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

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

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

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



EXCEPTIONS, CLARIFICATIONS, AMENDMENTS

RFP For General Environmental Services, RFP No. GES-2025

Proposer Name: _____

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

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

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

*Print additional pages as necessary



CONTRACT EQUITY PROGRAM & EQUAL EMPLOYMENT OPPORTUNITY

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

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

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

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

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

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

The CEP guidelines and forms can be downloaded from the District website at the following link:

<https://www.ebmud.com/business-center/contract-equity-program>

If you have questions regarding the Contract Equity Program, please call (510) 287-0114.



EXHIBIT B INSURANCE REQUIREMENTS

CONTRACTOR/COMPANY NAME: _____

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 BIDDER agrees to meet the minimum insurance requirements stated in the RFP.

The following provisions are 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 by signing and submitting Exhibit B (“Insurance Requirements”) to the DISTRICT. The Insurance Requirements may be signed by the insurance broker or the insurance broker’s agent (Insurance Broker/Agent) for the CONTRACTOR, or by an officer of the CONTRACTOR (Officer), or by the CONTRACTOR’s risk manager (Risk Manager). The Notice to Proceed shall not be issued, and CONTRACTOR shall not commence Services until a signed Verification of Insurance evidencing the specific coverages and limits required by this Agreement has been received by the DISTRICT.
- C. CONTRACTOR shall carry and maintain the minimum insurance requirements as defined in this Agreement. CONTRACTOR shall require any contractor/subcontractor to carry and maintain the minimum insurance required in this Agreement to the extent the insurance applies to the scope of the services to be performed by contractor/subcontractor.
- D. Receipt of a signed Verification of Insurance by the DISTRICT shall not relieve CONTRACTOR of any of the insurance requirements, nor decrease liability of CONTRACTOR.
- E. Insurance must be maintained, and an updated Verification of Insurance must be provided to the DISTRICT before the expiration of insurance by having the Insurance Broker/Agent, Officer, or Risk Manager update, sign and return the Insurance Requirements to the DISTRICT’s contract manager. The updated Insurance Requirements shall become a part of the Agreement but shall not require a change order to the Agreement. It is the CONTRACTOR’s sole responsibility to provide or to ensure that an updated Verification of Insurance is provided to the DISTRICT. The DISTRICT has no obligation to solicit, remind, prompt, request, seek, or otherwise obtain any updated Verification of Insurance, and any actual or alleged failure on the part of the DISTRICT to obtain any updated Verification of Insurance 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.

- F. 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.
- G. Any deductibles, self-insurance, or self-insured retentions (SIRs) applicable to the required insurance coverage must be declared to and accepted by the DISTRICT.
- H. At the option and request of the DISTRICT, CONTRACTOR shall provide documentation of its financial ability to pay the deductible, self-insurance, or SIR.
- I. CONTRACTOR is responsible for the payment of any deductibles or SIRs pertaining to the policies required under this Agreement. In the event CONTRACTOR is unable to pay the required SIR, CONTRACTOR agrees that such SIR may be satisfied, in whole or in part, by the DISTRICT as the additional insured at the DISTRICT's sole and absolute discretion, unless to do so would terminate or void the policy(ies).
- J. 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.
- K. CONTRACTOR shall defend the DISTRICT and pay any damages as a result of failure to provide the waiver of subrogation from the insurance carrier required by this Agreement.
- L. 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, must be before the date of this Agreement, and must be before the beginning of any Services related to this Agreement.
- M. For all claims-made policies the updated Verification of Insurance must be provided to the DISTRICT for at least three (3) years after expiration or termination of this Agreement.
- N. If claims-made coverage is canceled or is non-renewed and if the claims-made coverage is not replaced with another claims-made policy form with a retroactive date prior to the effective date of this Agreement and prior to 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 or termination of the Agreement.
- O. In the event of a claim or suit, and upon request by the DISTRICT, CONTRACTOR agrees to provide a copy of the pertinent policy(ies) within 10 days of such request to the DISTRICT for review. Any actual or alleged failure on the part of the DISTRICT to request a copy of the pertinent policy(ies) shall not in any way be construed to be a waiver of any right or remedy of the DISTRICT, in this or any regard. Additionally, the DISTRICT may, at any time during CONTRACTOR's performance under this Agreement, request a copy of the Declarations pages and Schedule of Forms and Endorsements of any policy required to be maintained by CONTRACTOR hereunder, whether or not a suit or claim has been filed. Premium details may be redacted from any such documents requested.
- P. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained herein.
- Q. 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.

- R. 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 to 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(s) if the claim(s) is likely to involve the DISTRICT.
- S. It is the obligation of the CONTRACTOR to ensure all contractors/subcontractors performing services under this Agreement maintain the necessary coverages and limits. CONTRACTOR shall ensure that all contractors/subcontractors agree to the same indemnity obligation that CONTRACTOR agrees to in this Agreement based on the nature and scope of services being performed by each contractor/subcontractor. CONTRACTOR shall require that each contractor/subcontractor include the DISTRICT, its directors, officers, and employees as additional insureds on its liability policy(ies) (excepting Professional Liability and Workers' Compensation) for all ongoing and completed operations with coverage as broad as required of CONTRACTOR under this Agreement. Failure or inability to secure fully adequate insurance shall in no way relieve the CONTRACTOR or all contractors/subcontractors of the responsibility for its own acts or the acts of any contractors/subcontractors or any employees or agents of either. All contractors/subcontractors are to waive subrogation against the DISTRICT on all policies. CONTRACTOR shall be responsible for maintaining records evidencing contractors'/subcontractors' compliance with the necessary insurance coverages and limits, and such records shall be made available to the DISTRICT within 10 days upon request.
- T. 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.
- U. 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 Insurance Broker/ Agent, or Officer, or Risk Manager update, sign and return the Insurance Requirements.

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. If there is an onsite exposure of injury to CONTRACTOR, and/or contractor/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.
- C. If CONTRACTOR 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.
- D. 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 "E."
- E. Waiver of Subrogation. Workers' Compensation policies, including any applicable excess and umbrella insurance, must contain a waiver of subrogation endorsement providing that CONTRACTOR and each insurer waive any and all rights of recovery by subrogation, or otherwise, against the DISTRICT, its directors, board, and committee members, officers, officials, employees, agents, and volunteers. CONTRACTOR shall defend and pay any and all damages, fees, and costs, of any kind arising out of, pertaining to, or in any way relating to CONTRACTOR's failure to provide waiver of subrogation from the insurance carrier.

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

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

As the CONTRACTOR's Insurance Broker/Agent, Officer, or Risk Manager, 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/Agent or Officer or Risk Manager - Print Name: _____

Insurance Broker/Agent or Officer or Risk Manager'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 and be as broad as Insurance Services Office (ISO) form CG 00 01.
- 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 contractor/subcontractor under this Agreement.
- F. There will be no exclusion for explosions, collapse, or underground liability (XCU).
- G. Insurance policies and Additional Insured Endorsement(s) shall not exclude liability and damages to work arising out of, pertaining to, or in any way relating to services performed by contractor/subcontractor on CONTRACTOR’s behalf.
- H. Contractual liability coverage shall be included and shall not limit, by any modification or endorsement, coverage for liabilities assumed by CONTRACTOR under this Agreement as an “insured contract.”
- I. Waiver of Subrogation. The policy shall be endorsed to include a Waiver of Subrogation ensuring that the CONTRACTOR and its insurer(s) waive any rights of recovery by subrogation, or otherwise, against the DISTRICT, its directors, board, and committee members, officers, officials, agents, volunteers, and employees. CONTRACTOR shall defend and pay any and all damages, fees, and costs, of any kind, arising out of, pertaining to, or in any way resulting from CONTRACTOR’s failure to provide the waiver of subrogation from its insurance carrier(s).
- J. Independent Contractor’s Liability shall not limit coverage for liability and/or damages arising out of, pertaining to, or in any way resulting from Services provided under this Agreement.
- K. 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. Coverage for the Additional Insureds

must be as broad as ISO forms CG 20 10 (ongoing operations) and CG 20 37 (completed operations) for liability arising in whole, or in part, from work performed by or on behalf of CONTRACTOR, or 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, Officer, or Risk Manager, 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 Retention: Amount: \$ _____

Policy Limit: _____

Policy Number: _____

Policy Period: from _____ **to** _____

Insurance Carrier Name: _____

Insurance Broker/Agent or Officer or Risk Manager - Print Name: _____

Insurance Broker/Agent or Officer or Risk Manager's Signature: _____

III. Business Auto 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. 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
- D. 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”).

- E. 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.
- F. 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 contractor’s/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.
- G. 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.
- H. 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, Officer, or Risk Manager, 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 Retention: Amount: \$ _____

Policy Limit: \$ _____

Policy Number: _____

Policy Period: from _____ **to** _____

Insurance Carrier Name: _____

Insurance Broker/Agent or Officer or Risk Manager – Print Name: _____

Insurance Broker/Agent or Officer or Risk Manager’s Signature: _____

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

- 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: Professional Liability Insurance with minimum limits as follows:

Each Claim: \$2,000,000

Aggregate Limit: \$2,000,000

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 reporting period for a minimum of three (3) years after completion of the Services.

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

Verification of Professional Liability (Errors and Omissions) Insurance Coverage

As the CONTRACTOR’S Insurance Broker/Agent, Officer, or Risk Manager, 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 Retention: Amount: \$ _____

Policy Limit: \$ _____

Policy Number: _____

Policy Period: from _____ **to** _____

Insurance Carrier Name: _____

Insurance Broker/Agent or Officer or Risk Manager- Print Name: _____

Insurance Broker/Agent or Officer or Risk Manager’s Signature: _____

V. Pollution 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: Pollution Liability Insurance with minimum limits, as follows:

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

D. Coverage must be included for bodily injury and property damage, including coverage for loss of use and/or diminution in property value, and for clean-up costs arising out of, pertaining to, or in any way related to the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of contaminants or pollutants, arising out of, pertaining to, or in any way resulting from any Services performed by CONTRACTOR under this Agreement; including any transportation of hazardous wastes, hazardous materials, or contaminants.

E. 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 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 the Agreement, CONTRACTOR must purchase an extended reporting period for a minimum of three (3) years after completion of the Services.

F. Insurance written on a claims-made basis shall include prior acts coverage sufficient to cover the services provided by CONTRACTOR under this Agreement.

Verification of Pollution Liability Insurance Coverage

As the CONTRACTOR'S Insurance Broker/Agent, Officer, or Risk Manager, I hereby verify that I have reviewed and confirmed that the CONTRACTOR carries Pollution Liability 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/Agent or Officer or Risk Manager - Print Name: _____

Insurance Broker/Agent or Officer or Risk Manager's Signature: _____

VI. Excess and/or Umbrella Liability Insurance Coverage (*Optional* – See Paragraph A below)

- A. The insurance requirements set forth above may be satisfied by a combination of primary and excess or umbrella policies. Where excess or umbrella policies are used the following shall apply:
- 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. 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.
- D. 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, and shall be at least as broad as coverage required of the underlying policies required herein.
 - 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. There will be no exclusion for explosions, collapse, or underground damage (XCU).
 - 3. Insurance policies and Additional Insured Endorsements shall not exclude coverage for liability and damages from services performed by contractor/subcontractor on CONTRACTOR's behalf.
 - 4. Contractual liability coverage shall be included and shall not limit, by any modification or endorsement, coverage for liabilities assumed by CONTRACTOR under this Agreement as an "insured contract."
 - 5. Independent Contractor's Liability shall not limit coverage for liability and/or damage arising out of, pertaining to, or in any way related to Services provided under this Agreement.
 - 6. To the fullest extent permitted by law, the DISTRICT, its directors, officers, officials, agents, volunteers, and employees must be covered as Additional Insureds on a primary and noncontributory basis on all excess and umbrella policies. The Additional Insureds must be covered for liability arising in whole or in part from any premises, Products, Ongoing Operations, and Completed Operations by or on behalf of CONTRACTOR, in any way related to Services performed under this Agreement.

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

Verification of Excess and/or Umbrella Liability Insurance Coverage

As the CONTRACTOR'S Insurance Broker/Agent, Officer, or Risk Manager, 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.

Excess/Umbrella Limits: Amount \$ _____

Policy Limit: \$ _____

Policy Number: _____

Policy Period from _____ **to** _____

Insurance Carrier Name: _____

Underlying Policy(ies) listed above to which Excess/Umbrella applies:

Insurance Broker/Agent or Officer or Risk Manager - Print Name: _____

Insurance Broker/Agent or Officer or Risk Manager's Signature: _____

GENERAL REQUIREMENTS

Effective: June 9, 2021
Supersedes: September 1, 2020

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1. DEFINITIONS

The following terms shall be given the meaning shown, unless context requires otherwise, or a unique meaning is otherwise specified.

- a. **"Change Order"** A Change Order is a written instrument used for modifying the contract with regards to the scope of Work, contract sum, and/or Contract Time. An approved Change Order is a Change Order signed by the District. An executed Change Order is a Change Order signed by both the District and the Contractor.
- b. **"Contract"** means the agreement between the District and Contractor as memorialized in the Contract Documents.

- c. **“Business Entity”** means any individual, business, partnership, joint venture, corporation, sole proprietorship, or other private legal entity recognized by statute.
- d. **“Buyer”** means the District’s authorized contracting official.
- e. **“Contract Documents”** comprise the entire agreement between the District and the Contractor and can include the District’s contract form if used, any purchase order, RFP, RFQ or Contractor response packet, and any addenda, appendices and District approved changes or amendments. The Contract Documents are intended to be complementary and include all items necessary for the Contractor’s proper execution and completion of the Work. Any part of the Work not shown or mentioned in the Contract Documents that is reasonably implied or is necessary or usual for proper performance of the Work, shall be provided by the Contractor at its expense.
- f. **“Contractor”** means the Business Entity with whom the District enters into a contractual agreement. Contractor shall be synonymous with “supplier”, “vendor”, “consultant” or other similar term.
- g. **“Day”** unless otherwise specified, days are calendar days, measured from midnight to the next midnight.
- h. **“District”** means the East Bay Municipal Utility District, its employees acting within the scope of their authority, and its authorized representatives.
- i. **“Goods”** means off the shelf software and all types of tangible personal property, including but not limited to materials, supplies, and equipment.
- j. **“Project Manager”** shall be the District designated individual responsible for administering and interpreting the terms and conditions of the Contract Documents, for matters relating to the Contractor’s performance under the Contract with the District, and for liaison and coordination between the District and Contractor.
- k. **“Work”** means all labor, tasks, materials, supplies, and equipment required to properly fulfill the Contractor’s obligations as required in the Contract Documents.
- l. **“Work Day”** Unless otherwise specified, work day includes all days of the year except Saturdays, Sundays and District holidays.

2. BOND

- a. When required in the District’s bid or proposal solicitation documents, the Contractor to whom award is made shall furnish a good and approved faithful performance bond and/or payment bond within ten business days after receiving the forms for execution.
- b. The bonds shall be executed by a sufficient, admitted surety insurer (i.e.: as listed on website <https://www.cslb.ca.gov/OnlineServices/InsuranceSearch/INSRequest.aspx>) admitted to transact such business in California by the California Department of Insurance. After acceptance of the bond(s) by the District, a copy of the bond(s) will be returned to the Contractor.
- c. If, during the continuance of the Contract, any of the sureties, in the opinion of the District, are or become irresponsible, the District may require other or additional sureties, which the Contractor shall furnish to the satisfaction of the District within ten

days after notice. If the Contractor fails to provide satisfactory sureties within the ten-day period, the Contract may be terminated for cause under Article 18.

3. CONTRACTOR'S FINANCIAL OBLIGATION

The Contractor shall promptly make payments to all persons supplying labor and materials used in the execution of the contract.

4. SAMPLES OR SPECIMENS

The Contractor shall submit samples or prepare test specimens of such materials to be furnished or used in the work as the Project Manager may require.

5. MATERIAL AND WORKMANSHIP

- a. All goods and materials must be new and of the specified quality and equal to approved sample, if samples have been required. In the event any goods or materials furnished, or services provided by the Contractor in the performance of the Contract fail to conform to the requirements, or to the sample submitted by the Contractor, the District may reject the same, and it shall become the duty of the Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to the District, and immediately replace all such rejected items with others conforming to the Contract. All work shall be done and completed in a thorough, workmanlike manner, notwithstanding any omission from these specifications or the drawings, and it shall be the duty of the Contractor to call attention to apparent errors or omissions and request instructions before proceeding with the work. The Project Manager may, by appropriate instructions, correct errors and supply omissions, which instructions shall be binding upon the Contractor as though contained in the original Contract Documents.
- b. All materials furnished and all Work must be satisfactory to the Project Manager. Work, material, or machinery not in accordance with the Contract Documents, in the opinion of the Project Manager, shall be made to conform.

6. DEFECTIVE WORK

The Contractor shall replace at its own expense any part of the work that has been improperly executed, as determined by the Project Manager. If Contractor refuses or neglects to replace such defective work, it may be replaced by the District at the expense of the Contractor, and its sureties shall be liable therefor.

7. WARRANTY

Contractor expressly warrants that all goods furnished will conform strictly with the specifications and requirements contained herein and with all approved submittals, samples and/or models and information contained or referenced therein, all affirmations of fact or promises, and will be new, of merchantable quality, free from defects in materials and workmanship, including but not limited to leaks, breaks, penetrations, imperfections, corrosion, deterioration, or other kinds of product deficiencies. Contractor expressly warrants that all goods to be furnished will be fit and sufficient for the purpose(s) intended. Contractor expressly warrants that all goods shall be delivered free from any security interest, lien or encumbrance of any kind, and free from any claim of infringement, copyright or other intellectual property violation, or other violation of laws, statutes, regulations, ordinances, rules, treaties, import

restrictions, embargoes or other legal requirements. Contractor guarantees all products and services against faulty or inadequate design, manufacture, negligent or improper transport, handling, assembly, installation or testing, and further guaranties that there shall be strict compliance with all manufacturer guidelines, recommendations, and requirements, and that Contractor guaranties that it will conform to all requirements necessary to keep all manufacturer warranties and guarantees in full force and effect. These warranties and guarantees are inclusive of all parts, labor and equipment necessary to achieve strict conformance, and shall take precedence over any conflicting warranty or guarantee. These warranties and guarantees shall not be affected, limited, discharged or waived by any examination, inspection, delivery, acceptance, payment, course of dealing, course of performance, usage of trade, or termination for any reason and to any extent. In the absence of any conflicting language as to duration, which conflicting language will take precedence as being more specific, Contractor's aforesaid warranties and guarantees shall be in full force and effect for a period of one year from the date of acceptance by the District but shall continue in full force and effect following notice from District of any warranty or guarantee issue, until such issue has been fully resolved to the satisfaction of District.

8. NOT USED

9. SAFETY AND ACCIDENT PREVENTION

In performing work under the Contract on District premises, Contractor shall conform to any specific safety requirements contained in the Contract or as required by law or regulation. Contractor shall take any additional precautions as the District may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Contract or Contractor's right to precede in accordance with the default provisions of the Contract Documents.

10. CHARACTER OF WORKFORCE

The Contractor shall employ none but skilled competent qualified personnel to perform the Work and shall maintain discipline and order in the conduct of the Work at all times.

11. PREVAILING WAGES & DIR REGISTRATION

- a. Please see www.dir.ca.gov for further information regarding the below.
- b. All Contractors and Subcontractors of any tier bidding on or offering to perform 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).
- c. 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
- d. to post job site notices, "as prescribed by regulation" (LC § 1771.4).
- e. To the extent applicable, 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. Pursuant to Section

1773.2 of the Labor Code, 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.

- f. 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 Work.
- g. 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.
- h. 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.
- i. As set forth with more specificity in Section 1773.1 of the Labor Code, "per diem" wages include employer payments for health and welfare, pension, vacation, travel, subsistence and, in certain instances, apprenticeship or other training programs, and shall be paid at the rate and in the amount spelled out in the pertinent prevailing wage determinations issued by the Director of Industrial Relations.
- j. 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.
- k. 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 its payment 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 its own expense.
- l. General prevailing wage determinations have expiration dates with either a single
- m. 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.

12. PAYROLL RECORDS & ELECTRONIC SUBMISSION

If prevailing wages apply, Contractor and each Subcontractor, as appropriate, shall comply with the following:

- a. 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.

- b. The Contractor shall submit for each week in which any contract Work is performed a copy of all payroll records to the Project Manager. The Contractor shall be responsible for submission of copies of payroll records of all Subcontractors.
- c. The Contractor or Subcontractor shall certify the payroll records as shown on the DIR form. In addition, the records shall be accompanied by a statement signed by the Contractor or Subcontractor certifying that the classifications truly reflect the Work performed and that the wage rates are not less than those required to be paid.
- d. 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.
- e. 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.
- f. 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>.

13. HOURS OF LABOR

Pursuant to the provisions of Sections 1810, et seq. of the Labor Code and any amendments thereof:

- a. Eight hours of labor constitutes a legal day's Work under the contract.
- b. 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 except as provided in Article 13.iv below.
- c. 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 in the execution of the contract 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 this Article and the provisions of Labor Code, Sections 1810, et seq.

- d. 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.
- e. 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.

14. EMPLOYMENT OF APPRENTICES

- a. In the performance of the 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.
- b. In the event the Contractor or any Subcontractor willfully fails to comply with the aforesaid section, such Contractor or Subcontractor shall be subject to the penalties for noncompliance in Labor Code, Section 1777.7.

15. CHANGES

- a. Changes in the Work can only be made in writing signed by an authorized employee of the District. If the change causes an increase or decrease in the contract sum, or a change in the time for performance under the Contract, an adjustment may be made as determined by the Project Manager.
- b. The District reserves the right to make changes in the design of materials, equipment, or machinery, to make alterations or additions to or deviations or subtractions from the Contract and any specifications and drawings, to increase or decrease the required quantity of any item or portion of the Work or to omit any item or portion of the Work, as may be deemed by the Project Manager to be necessary or advisable and to order such extra work as may be determined by the Project Manager to be required for the proper execution and completion of the whole Work contemplated. Any such changes will be ordered in writing by the Project Manager. The determination of the Project Manager on all questions relating to changes, including extra work, shall be conclusive and binding.
- c. Prior to issuing an amendment or change to the Contract, the Project Manager may request that the Contractor submit a proposal covering the changes. Within 10 business days of receiving the request, the Contractor shall submit its proposal to the Project Manager of all costs associated with the proposed amendment or change and any request for an extension of Contract time. Contractor's proposal shall include detailed estimates with cost breakdowns, including labor, material, equipment, overhead, and profit. Labor shall be broken down into hours and rate per hour. If applicable, the proposal shall include a breakdown for off-site labor (including factory labor, engineering, etc.). The Contractor's proposal shall include an analysis of schedule impact when the Contractor is requesting an adjustment in contract time. The

Contractor shall be responsible for any delay associated with its failure to submit its change proposal within the time specified. If the Project Manager decides not to issue an amendment or change after requesting a proposal from the Contractor, the Contractor will be notified in writing. The Contractor is not entitled to reimbursement for Change Order preparation costs if the Contractor's proposal is not accepted by the Project Manager.

- d. If the Contractor agrees with the terms and conditions of the approved Change Order, the Contractor shall indicate its acceptance by signing the original copy and returning it to the Project Manager within 10 Work Days after receipt or with reasonable promptness and in such sequence as to not delay the Work or activities of the District or of separate contractors, whichever is sooner. If notice of any change is required to be given to a surety by the provisions of any bond, the Contractor shall provide notice and the amount of each applicable bond shall be adjusted separately. Payment in accordance with the terms and conditions set forth in the executed Change Order shall constitute full compensation for all Work included in the Change Order and the District will be released from any and all claims for direct, indirect, and impact expenses and additional time impact resulting from the Work. If the Contractor disagrees with the terms and conditions of the approved Change Order, the Contractor shall indicate specific areas of disagreement and return the approved Change Order to the Project Manager with a detailed written dispute. No payment will be made on the disputed work until the approved Change Order is returned to the Project Manager. However, whether or not the Contractor agrees with the terms and conditions of an approved Change Order, the Contractor shall immediately revise its sequence of operations as required to facilitate timely completion of the changed work and shall proceed with the revised work sequence.
- e. The Project Manager may, after having received a written cost quotation from the Contractor, order the Contractor, in writing, to proceed with the work prior to issuance of an approved Change Order through a change directive. The change directive will authorize the Contractor to proceed with the work subject to the cost quotation submitted by the Contractor. Within five days following receipt of the change directive, the Contractor shall submit a detailed change proposal documenting the amount of compensation. The Project Manager will review the change proposal and, at its option, will either issue an approved Change Order for the work or direct the Contractor to perform the work through Force Account. Until the method of compensation is determined, and the approved Change Order is received, the Contractor shall keep full and complete time and material records of the cost of the ordered work and shall permit the Project Manager to have access to such records. An approved Change Order shall supersede any previously issued written change directive covering the same Work.

16. EFFECT OF EXTENSIONS OF TIME

The granting, or acceptance, of extensions of time to complete the Work or furnish the labor, supplies, materials or equipment, or any one of the aforementioned, will not operate as a release of Contractor or the surety on Contractor's faithful performance bond.

17. DELAYS

- a. The Contractor shall take reasonable precautions to foresee and prevent delays to the Work. When the Contractor foresees a delay event, and upon the occurrence of a delay

event, the Contractor shall immediately notify the Project Manager of the probability or the actual occurrence of a delay, and its cause. With respect to all delays (compensable, excusable or inexcusable), the Contractor shall reschedule the Work and revise its operations, to the extent possible, to mitigate the effects of the delay. Within 15 days from the beginning of a delay the Contractor shall provide the Project Manager with a detailed written description of the delay, its cause, its impact and the Contractor's mitigation plans. Failure to provide the notification required above waives the Contractor's right to any additional time or compensation resulting from the delay for whatever cause. The Project Manager will investigate the facts and ascertain the extent of the delay, and the Project Manager's findings thereon shall be final and conclusive, except in the case of gross error. An extension of time must be approved by the Project Manager to be effective, but an extension of time, whether with or without consent of the sureties, shall not release the sureties from their obligations, which shall remain in full force until the discharge of the contract.

- b. For inexcusable delays (delays caused by circumstances within the Contractor's control, the control of its subcontractors or supplies of any tier, or within the scope of the Contractor's contract responsibilities) the Contractor shall not be entitled to an extension of time or additional compensation for any loss, cost, damage, expense or liability resulting directly or indirectly from the inexcusable delay.
- c. For excusable delays (delays to completion of the Work within the time limits set forth in the Contract Documents directly caused by events beyond the control of both the Contractor and the District, which delay is not concurrent with an inexcusable delay and which could not have been avoided by the Contractor through reasonable mitigation measures the Project Manager will grant the Contractor an extension of time in an amount equal to the period of Excusable Delay based on the analysis of schedule impact and delay analysis diagram, which shall be the Contractor's sole and exclusive remedy for such delay. Excusable Delays shall include labor strikes, adverse weather, and Acts of God.
- d. For compensable delays (delays to completion of the Work within the time limits set forth in the Contract Documents that could not be avoided by Contractor mitigation, caused directly and solely by the District or by causes within the exclusive control of the
- e. District, and which were not concurrent with any other type of delay) the Project
- f. Manager will grant the Contractor an extension of the time to perform under the Contract and compensation in an amount that represents the Contractor's actual direct costs incurred as a direct result of the compensable delay. The Contractor may recover its direct costs only and may not recover (and waives) all other types of indirect, consequential, special and incidental damages.
- g. For concurrent delays (two or more independent causes of delay directly preventing the Contractor from completing the Work within the time limits set forth in the Contract Documents where the delays occur at the same time during all or a portion of the delay period being considered, and where each of the delays would have caused delay to the Contractor even in the absence of any of the other delays, and none of the delays could have been avoided by Contractor mitigations) the following rules apply:

- i. One or more of the concurrent delays are excusable or compensable, then the period of concurrent delay will be treated as an excusable delay; and
- ii. All of the concurrent delays are inexcusable, then the period of concurrent delay will be inexcusable.

18. TERMINATION

a. Termination by the District for Cause:

- i. District may terminate the Contractor's right to proceed under the Contract, in whole or in part, for cause at any time after the occurrence of any of the following events, each of which constitutes a default:
 - 1. The Contractor becomes insolvent or files for relief under the bankruptcy laws of the United States.
 - 2. The Contractor makes a general assignment for the benefit of its creditors or fails to pay its debts as the same become due.
 - 3. A receiver is appointed to take charge of the Contractor's property.
 - 4. The Contractor fails to supply skilled supervisory personnel, an adequate number of properly skilled workers, proper materials, or necessary equipment to prosecute the Work in accordance with the Contract Documents.
 - 5. The Contractor fails to make progress so as to endanger performance of the Work within the contractually required time.
 - 6. The Contractor disregards legal requirements of agencies having jurisdiction over the Work, the Contractor, or the District.
 - 7. The Contractor fails to provide the District with a written plan to cure a District identified default within five business days after the District's request for a plan to cure; the District does not accept the Contractor's plan for curing its default; or the Contractor does not fully carry out an accepted plan to cure.
 - 8. The Contractor abandons the Work. Abandonment is conclusively presumed when the District requests a written plan to cure a default and the Contractor does not submit the plan within five business days of the District's request.
 - 9. The Contractor materially fails to meet its obligations in accordance with the Contract Documents.
 - 10. The Contractor is in default of any other material obligation under the Contract Documents.
- ii. If any of the above events occur, the District may, in its discretion, require that the Contractor submit a written plan to cure its default, which plan must be provided to the District within 5 business days of the request and must include a realistic, executable plan for curing the noted defaults.

- iii. Upon any of the occurrences referred to in Article 18.a.i. above, the District may, at its election and by notice to the Contractor, terminate the Contract in whole or in part; accept the assignment of any or all of the subcontracts; and then complete the Work by any method the District may deem expedient. If requested by the District, the Contractor shall remove any part or all of the Contractor's materials, supplies, equipment, tools, and machinery from the site of the Work within seven days of such request; and, if the Contractor fails to do so, the District may remove or store, and after 90 days sell, any of the same at the Contractor's expense.
- iv. No termination or action taken by the District after termination shall prejudice any other rights or remedies of the District provided by law or by the Contract Documents.
- v. Conversion: If, after termination for other than convenience, it is determined that the Contractor was not in default or material breach, or that the default or material breach was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for convenience pursuant to Article 18.b. below.

b. Termination by the District for Convenience:

- i. The District may, at its option, and for its convenience, terminate the Contract at any time by giving written notice to the Contractor specifying the effective date of termination. Upon such termination, the Contractor agrees to comply with the notice and further agrees to waive any claims for damages, including loss of anticipated profits, on account of the termination; and, as the sole right and remedy of the Contractor, the District shall pay the Contractor as set forth below.
- ii. Upon receipt of a notice of termination for convenience, the Contractor shall, unless the notice directs otherwise, do the following:
 - 1. Immediately discontinue its performance of the Contract to the extent specified in the notice.
 - 2. Place no further orders or subcontracts for materials, equipment, services, or facilities, except as may be necessary for completion of a portion of the Work that is not discontinued or that is necessary for an orderly cessation of the Work.
 - 3. Promptly cancel, on the most favorable terms reasonably possible, all subcontracts to the extent they relate to the performance of the discontinued portion of the Work.
 - 4. Thereafter, do only such Work as may be necessary to preserve and protect Work already in progress and to protect materials, plants, and equipment in transit to or on the site of performance.
- iii. Upon such termination for convenience, the District will pay to the Contractor the sum of the following:

1. The amount of the contract sum allocable to the portion of the Work properly performed by the Contractor as of the effective date of termination, less sums previously paid to the Contractor.
 2. Previously unpaid costs of any items delivered to the project site that were already fabricated for subsequent incorporation into the Work.
 3. Any proven losses with respect to materials and equipment directly resulting from the termination.
 4. Reasonable demobilization costs.
- iv. The above reimbursement is the sole and exclusive remedy to which the Contractor is entitled in the event the contract is terminated for convenience; and the Contractor expressly waives any other claims, damages, demands, compensation or recovery related to this contract or project. The Contractor agrees to sign a general release incorporating this waiver.
- c. Effect of Termination: Upon termination, the obligations of the Contract shall continue as to portions of the Work already performed and, subject to the Contractor's obligations under Article 18.b.ii, as to bona fide obligations assumed by the Contractor prior to the date of termination.
- d. Force Majeure: If the contract is suspended or terminated by the District because Contractor's performance is prevented or delayed by an event including an irresistible, superhuman cause, or by the act of public enemies of the State of California or of the United States ("Force Majeure"), the Contractor will be paid for Work performed prior to the Force Majeure event at either (i) the unit prices named in the Contract; or (ii) in the event no unit prices are named, a sum equal to the percentage of the total contract amount that matches the percentage of the total contract Work performed prior to the Force Majeure event.

19. DAMAGES

All losses or damages to material or equipment to be furnished pursuant to the Contract Documents occurring prior to receipt and final acceptance of the Work shall be sustained by the Contractor. The Contractor shall sustain all losses arising from unforeseen obstructions or difficulties, either natural or artificial, encountered in the prosecution of the Work, or from any action of the elements prior to final acceptance of the work, or from an act or omission on the part of the Contractor not authorized by the Contract Documents.

20. ORDER OF PRECEDENCE

- a. In the case of conflicts, errors, or discrepancies in any of the Contract Documents, the order of precedence is as follows. Within the same order of precedence, specific requirements shall take precedence over general requirements.
- i. Approved Change Orders.
 - ii. Addenda.
 - iii. RFQ or RFP.
 - iv. Referenced Standard Specifications and Drawings.
 - v. Contractor's Response Packet.

- b. With reference to drawings:
 - i. Numerical dimensions govern over scaled dimensions.
 - ii. Detailed drawings govern over general drawings.
 - iii. Addenda/Change Order drawings govern over contract drawings.
 - iv. Contract drawings govern over standard drawings.
 - v. Notes apply only to the drawing where the notes appear, unless classified as “typical” or intended to apply elsewhere in which case they apply to all drawings where the conditions or circumstance noted occurs.
 - vi. Typical details apply to all drawings unless a specific different detail is shown.

21. INDEMNIFICATION

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

22. PROHIBITION OF ASSIGNMENT

The Contractor shall not assign, transfer, or otherwise dispose of any of its rights, duties or obligations under this Contract. This prohibition does not apply to the District. The District retains the right to assign this Contract in whole or in part at any time upon reasonable terms.

23. NEWS RELEASES

The Contractor, its employees, subcontractors, and agents shall not refer to the District, or use any logos, images, or photographs of the District for any commercial purpose, including, but not limited to, advertising, promotion, or public relations, without the District's prior written consent. Such written consent shall not be required for the inclusion of the District's name on a customer list.

24. SEVERABILITY

Should any part of the Contract 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 the Contract, which shall continue in full force and effect, provided that the remainder of the Contract can be interpreted to give effect to the intentions of the parties.

25. COVENANT AGAINST GRATUITIES

The Contractor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the District with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the District shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the District in procuring on the open market any items which Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the District provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.

26. RIGHTS AND REMEDIES OF THE DISTRICT

The rights and remedies of the District provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

27. WAIVER OF RIGHTS

Any action or inaction by the District or the failure of the District on any occasion, to enforce any right or provision of the Contract, shall not be construed to be a waiver by the District of its rights and shall not prevent the District from enforcing such provision or right on any future occasion. Rights and remedies are cumulative and are in addition to any other rights or remedies that the District may have at law or in equity.

28. CONFIDENTIALITY

Contractor agrees to maintain in confidence and not disclose to any person or entity, without the District's prior written consent, any trade secret or confidential information, knowledge or data relating to the products, process, or operation of the District. Contractor 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 Contractor during the term of the Contract. The covenants contained in this paragraph shall survive the termination of this Contract for whatever cause.

EXHIBIT D

CONTRACT EQUITY PROGRAM FORMS



EMPLOYMENT DATA AND CERTIFICATION INSTRUCTIONS (P-025)

**COMPLETION OF THIS FORM IS REQUIRED FOR ALL BIDS AND PROPOSALS.
AN IMPROPER OR INCOMPLETE FORM MAY RESULT IN REJECTION OF YOUR BID OR PROPOSAL OR
TERMINATION OF YOUR CONTRACT**

The East Bay Municipal Utility District **REQUIRES** the completion of this form when submitting any formal bid in response to a Notice to Contractors (NTC), Request for Statement of Qualifications (RSOQ), Request for Quotation (RFQ), or Request for Proposal (RFP) for materials, equipment, construction or professional or general services. Bidder/Proposer who fails to complete all applicable sections of this form may be denied contracts with the District.

Note: If you have difficulty completing this form or need clarification of the instructions, contact the Contract Equity Office at 510-287-0114.

SECTION A

FIRM NAME		<input type="checkbox"/> PRIME <input type="checkbox"/> SUBCONTRACTORS/TRUCKERS/ SUPPLIERS Submit a separate P-25 form for each subcontractor/trucker/supplier doing work for \$70,000 or more.	
PARENT COMPANY			
STREET ADDRESS (City, State, ZIP)			
MAILING ADDRESS (City, State, ZIP)			
PHONE NO.	FAX NO.	WEBSITE	E-MAIL

A1. TYPE OF ORGANIZATION

<input type="checkbox"/> INDIVIDUAL	NAME OF OWNER:		
<input type="checkbox"/> NONPROFIT CORP.	<input type="checkbox"/> PUBLICLY HELD CORP.	STATE OF INCORPORATION:	
<input type="checkbox"/> PRIVATE CORP.	<input type="checkbox"/> FOREIGN-OWNED		

Name(s), title, family relationship(s) and percentage of stock ownership for all shareholders who own 25% or more of stock in the corporation.

NAME	TITLE	FAMILY RELATIONSHIP	PERCENTAGE
			%
			%
			%

☐ JOINT VENTURE

List of Participants – Indicate percentage of work to be realized by each.

	%
	%

☐ PARTNERSHIP

Names of Partners – Indicate whether (G) General or (L) Limited.

A2. COMPOSITION OF OWNERSHIP

Indicate the percent of ethnic and gender ownership below

	Non-Hispanic Origin		Hispanic/ Latin American	Asian			Native American	Other	Refuse to State*
	White/ Caucasian	Black/ African American		Asian American	Asian-Pacific Islander American	Asian- Indian American		Indicate	
MALE									
FEMALE									
TOTAL									

* Firms that refuse to state will be classified as "Other".

SECTION B

B1. EMPLOYMENT DATA

Indicate below the number of employees in each occupational category for each of the ethnic groups listed for your firm's permanent workforce. (Report employees in only one category. Permanent workforce is defined as full- and part-time employees with 6 months or more of continuous service.) You may attach your EEO1 report in lieu of completing the form below. Please provide both your firm's consolidated and individual establishment EEO1 reports.

RACE/ETHNICITY (number of employees)																
Hispanic or Latino		Not Hispanic or Latino														
		Male						Female								
		Male	Female	White	Black or African American	Native Hawaiian or Other Pacific Islander	Asian	American Indian or Alaska Native	Two or More Races	White	Black or African American	Native Hawaiian or Other Pacific Islander	Asian	American Indian or Alaska Native	Two or More Races	Total A-N
JOB CATEGORIES	A		B	C	D	E	F	G	H	I	J	K	L	M	N	O

* Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Solano, Sonoma, and Santa Clara Counties

B1a. Identify the metropolitan statistical area (MSA) from which your firm's total permanent workforce is drawn. (See page 5)

B1c. Name of person responsible for affirmative action and compliance with equal employment opportunity laws in your firm:

B1b. If your firms total permanent workforce is located in one county or parish, please identify:

PRINT NAME

TITLE

SECTION C

CERTIFICATION OF FIRM'S OWNERSHIP AND COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS REGARDING EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION REPORTING AND COMPLIANCE PROGRAMS INCLUDING HAVING A DISTRICT APPROVED PROCESS FOR RESPONDING TO COMPLAINTS OF DISCRIMINATION, HARASSMENT, AND RETALIATION

The undersigned has been (is) authorized to execute this certificate on behalf of _____
NAME OF FIRM _____ and

swears under penalty of perjury that the foregoing statements are true and correct and that they include all material information necessary to identify and explain the operations of this firm as well as the ownership thereof. Any material misrepresentation will be grounds for terminating any purchase orders or contracts which may be or were awarded and for initiating actions under Federal or State laws concerning false statements. The District reserves the right to request support documentation, such as tax records, articles of incorporation and board minutes to verify composition of ownership.

The undersigned does further certify that the firm named above complies with the following non-discrimination clauses:

There shall be no discrimination against any person, or groups of persons, per Government Code Section 12940, Labor Code Section 1735, or any other applicable law or regulation in the performance of this contract.

There shall be no discrimination in the performance of this contract, against any person, or group of persons, on account of race, color, religion, religious 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, sexual orientation, or military and veteran status. The Contractor shall not establish or permit any such practice(s) of discrimination with reference to the contract. Contractors determined to be in violation of this section will be deemed to be in material breach of the contract.

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.

The Contractor shall include the nondiscrimination and compliance provisions of these clauses in all subcontracts

EXECUTED IN _____

CITY, COUNTY, STATE

ON _____

DATE

BY _____

PRINT NAME

TITLE

SIGNATURE

PHONE NUMBER

P-025 SUPPLEMENT

Instructions to Determine Your Statistical Areas (SA): If you operate a business solely or predominantly within one of the SA's listed below, use that location. If you have multiple facilities within a single state, use a State SA. If you have multiple facilities throughout the United States, use Total United States percentage. If you have any questions, call 510-287-0114.

CA STATISTICAL AREAS	WM%	WW%	EM%	CA STATISTICAL AREAS	WM%	WW%	EM%
BAKERSFIELD	29.7%	24.6%	45.7%	SAN JOSE	26.9%	21.0%	52.1%
FRESNO	25.1%	21.6%	53.3%	SAN LUIS OBISPO-ATASCADERO-PASA ROBLES	42.3%	36.6%	21.1%
LOS ANGELES-LONG BEACH	20.2%	16.4%	63.5%	SANTA BARBARA-SANTA MARIA-LOMPOC	31.8%	28.6%	39.6%
MERCED	24.9%	21.1%	54.0%	SANTA CRUZ-WATSONVILLE	37.5%	32.1%	30.4%
MODESTO	33.0%	28.4%	38.6%	SANTA ROSA	39.8%	36.9%	23.4%
OAKLAND	28.0%	24.2%	47.8%	STOCKTON-LODI	28.1%	24.5%	47.4%
REDDING	46.6%	41.5%	11.9%	VALLEJO-FAIRFIELD-NAPA	30.2%	26.8%	42.9%
RIVERSIDE-SAN BERNADINO	28.2%	23.4%	48.3%	VENTURA	33.3%	27.6%	39.1%
SACRAMENTO	36.1%	32.3%	31.6%	YUBA CITY	34.9%	31.0%	34.1%
SAN DIEGO	32.4%	27.5%	40.2%				
SAN FRANCISCO	30.8%	25.1%	44.0%				

CA COUNTIES	WM%	WW%	EM%	CA COUNTIES	WM%	WW%	EM%
9 BAY AREA COUNTIES*	32.3%	27.8%	39.9%	SAN BERNARDINO	26.5%	22.3%	51.1%
ALAMEDA/CONTRA COSTA	28.9%	24.9%	46.2%	SAN DIEGO	32.4%	27.5%	40.2%
ALAMEDA	24.5%	21.6%	53.9%	SAN FRANCISCO	29.2%	22.5%	48.3%
CONTRA COSTA	33.3%	28.2%	38.5%	SAN JOAQUIN	28.1%	24.5%	47.4%
EL DORADO	46.7%	39.4%	13.9%	SAN LUIS OBISBO	42.3%	36.6%	21.1%
FRESNO	24.7%	21.4%	54.0%	SAN MATEO	28.6%	23.6%	47.9%
LOS ANGELES	20.2%	16.4%	63.5%	SANTA CLARA	26.9%	21.0%	52.1%
MARIN	42.8%	38.4%	18.8%	SANTA CRUZ	37.5%	32.1%	30.4%
MENDOCINO	40.4%	37.0%	22.6%	SHASTA	46.6%	41.5%	11.9%
MERCED	24.9%	21.1%	54.0%	SOLANO	27.8%	24.6%	47.6%
MONTEREY	23.8%	21.3%	54.9%	SONOMA	39.8%	36.9%	23.4%
NAPA	37.6%	33.6%	28.8%	STANISLAUS	33.0%	28.4%	28.6%
ORANGE	30.9%	25.5%	43.6%	YOLO	31.7%	29.8%	38.5%
RIVERSIDE	30.1%	24.7%	45.3%	YUBA	36.7%	34.0%	29.4%
SACRAMENTO	32.7%	30.0%	37.3%				

*ALAMEDA, CONTRA COSTA, MARIN, NAPA, SAN FRANCISCO, SAN MATEO, SOLANO, SONOMA, AND SANTA CLARA

STATES	WM%	WW%	EM%	STATES	WM%	WW%	EM%
ALABAMA	40.8%	33.2%	26.0%	MONTANA	49.1%	42.5%	8.4%
ALASKA	40.2%	33.1%	26.7%	NEBRASKA	47.1%	42.7%	10.2%
ARIZONA	37.0%	31.7%	31.3%	NEVADA	37.8%	31.3%	30.9%
ARKANSAS	44.0%	37.5%	18.5%	NEW HAMPSHIRE	50.6%	45.0%	4.4%
CALIFORNIA	28.0%	23.6%	48.4%	NEW JERSEY	36.7%	31.5%	31.7%
COLORADO	42.2%	36.2%	21.6%	NEW MEXICO	26.6%	23.1%	50.3%
CONNECTICUT	42.4%	37.8%	19.8%	NEW YORK	35.0%	30.9%	34.1%
DELEWARE	39.3%	35.5%	25.3%	NORTH CAROLINA	39.1%	34.0%	26.9%
DISTRICT OF COLUMBIA	19.2%	18.0%	62.8%	NORTH DAKOTA	49.6%	44.4%	6.0%
FLORIDA	35.7%	30.9%	33.4%	OHIO	46.1%	40.2%	13.7%
GEORGIA	35.9%	30.0%	34.2%	OKLAHOMA	41.7%	35.4%	22.9%
HAWAII	13.1%	11.1%	75.8%	OREGON	45.5%	39.5%	15.0%
IDAHO	48.6%	40.8%	10.5%	PENNSYLVANIA	46.4%	40.2%	13.4%
ILLINOIS	38.6%	33.6%	27.8%	RHODE ISLAND	44.1%	41.4%	14.5%
INDIANA	47.1%	40.6%	12.3%	SOUTH CAROLINA	37.6%	32.4%	30.0%
IOWA	49.2%	44.8%	6.0%	SOUTH DAKOTA	48.0%	43.6%	8.4%
KANSAS	45.6%	40.1%	14.3%	TENNESSEE	44.1%	37.1%	18.8%
KENTUCKY	48.4%	41.9%	9.7%	TEXAS	31.5%	26.1%	42.4%
LOUISIANA	37.3%	30.0%	32.7%	UTAH	47.7%	39.1%	13.2%
MAINE	50.6%	46.5%	2.9%	VERMONT	50.4%	46.3%	3.3%
MARYLAND	34.0%	30.2%	35.8%	VIRGINIA	38.6%	34.0%	27.3%
MASSACHUSETTS	44.0%	40.6%	15.3%	WASHINGTON	43.6%	37.6%	18.8%
MICHIGAN	44.1%	37.5%	18.4%	WEST VIRGINIA	51.9%	43.3%	4.9%
MINNESOTA	47.6%	43.1%	9.3%	WISCONSIN	47.5%	42.8%	9.6%
MISSISSIPPI	36.1%	29.6%	34.3%	WYOMING	49.0%	41.4%	9.6%
MISSOURI	45.6%	40.3%	14.1%				

TOTAL USA 39.0% 33.7% 27.2%

WM = White Men, **WW** = White Women, **EM** = Ethnic Minority.

Figures compiled from the 2010 Census of Population, U.S. Department of Commerce, Bureau of the Census.



CONTRACT EQUITY PARTICIPATION (P-040)

BIDDER'S /
PROPOSER'S NAME

PROJECT NAME

ADDRESS

SPEC. / PROPOSAL NO. (If applicable)

E-MAIL ADDRESS

BID / PROPOSAL AMOUNT \$

PHONE NO.

FAX NO.

This form shall be submitted by **first and second** apparent low bidders within 2 Work Days of bid opening time for construction projects and by **all proposers** with their proposal for professional and general services. All subcontractors¹, truckers and suppliers at any tier level of participation, known at this time shall be listed on this form. Submit a separate P-025 form for each Subcontractor/Trucker/Supplier with a subcontract amount of \$70,000 or more.

COMPANY AND CONTACT NAME, ADDRESS, PHONE NUMBER AND E-MAIL ADDRESS	OWNERSHIP			TYPE OF WORK TO BE DONE ³	ESTIMATED DOLLAR AMOUNT
	ETHNICITY ²	GENDER			
		M	F		

Note: Additional spaces are provided on the back of this form.

The subcontractors, truckers, and suppliers listed in this schedule shall be utilized for the Work conditioned upon execution of a contract with East Bay Municipal Utility District. Substitution or replacements of these subcontractors, truckers, and suppliers must comply with Section III.B. Substitution or Replacement in the Contract Equity Program and Equal Employment Opportunity Guidelines.

Signature of Authorized Bidder / Proposer's Official

Date

Print Name

Title

¹ The person or persons, co-partnership, firm or entity in direct contract with the Contractor or with any other Subcontractor for the purpose of furnishing materials, equipment, and/or performing part of the contract work.

² Ethnic Classifications: **A/PIA** Asian-Pacific Islander American **H/LA** Hispanic/Latin American **W/CA** White/Caucasian American
B/AA Black/African American **NA** Native American

³ Describe exact portion, location (if necessary) of item to be performed or furnished by that subcontractor.



CONTRACT EQUITY PARTICIPATION (P-040)

COMPANY AND CONTACT NAME, ADDRESS, PHONE NUMBER AND E-MAIL ADDRESS	OWNERSHIP			TYPE OF WORK TO BE DONE ³	ESTIMATED DOLLAR AMOUNT		
	ETHNICITY ²	GENDER					
		M	F				



EXHIBIT E

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 F INFORMATION TECHNOLOGY SECURITY INFORMATION TO BE EXCLUDED FROM PUBLIC RECORDS ACT REQUESTS

EBMUD is required to respond to California Public Records Act (CA PRA) requests. Request for Proposals (RFP) are subject to CA PRA requests. If you are submitting sensitive security information about your products or services as part of your response to an RFP for software services, you must submit it as part of Exhibit F for it to be categorized as exempt from CA PRA requests. Any information submitted outside of Exhibit F may be released in response to a CA PRA request.

If you are submitting any information as an attachment, be sure to add the phrase EXHIBIT F to the title and/or filename.

EXHIBIT G

SAMPLE CONSULTING AND PROFESSIONAL SERVICES AGREEMENT

**CONSULTING AND PROFESSIONAL
SERVICES AGREEMENT FOR
EAST BAY MUNICIPAL UTILITY DISTRICT
GENERAL ENVIRONMENTAL SERVICES**

THIS Agreement is made and entered into this ____ day of _____, 2025, by and between **EAST BAY MUNICIPAL UTILITY DISTRICT**, a public entity, hereinafter called “DISTRICT,” and ***(CONTRACTOR'S FULL LEGAL NAME, BOLD, ALL CAPS followed by type of entity [corporation, etc.])***, hereinafter called “CONTRACTOR.”

WITNESSETH

WHEREAS, DISTRICT requires consulting services for General Environmental Services; and

WHEREAS, CONTRACTOR has submitted a proposal to provide consulting services for General Environmental Services and the CONTRACTOR 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 CONTRACTOR that for the considerations hereinafter set forth, CONTRACTOR shall provide said services to DISTRICT, as set forth in greater detail herein.

ARTICLE 1 - SCOPE OF WORK

- 1.1. CONTRACTOR 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. It is understood and agreed that CONTRACTOR has the professional skills necessary to perform the work agreed to be performed under this Agreement, that DISTRICT relies upon the professional skills of CONTRACTOR to do and perform CONTRACTOR's work in a skillful and professional manner, and CONTRACTOR thus agrees to so perform the work. CONTRACTOR represents that it has all the necessary licenses to perform the work and shall maintain them during the term of this Agreement. CONTRACTOR agrees that the work performed under this Agreement shall follow practices usual and customary to the Environmental Consulting & Engineering profession and that CONTRACTOR 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 CONTRACTOR from such professional responsibility for the work performed.
- 1.3. CONTRACTOR 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. CONTRACTOR 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 CONTRACTOR during the term of this Agreement. The covenants contained in this paragraph shall survive the termination of this Agreement for whatever cause.
- 1.4. 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 CONTRACTOR or its subcontractors 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. CONTRACTOR and its subcontractors may retain and use copies of such documents, with written approval of DISTRICT.
- 1.5. CONTRACTOR is an independent contractor and not an employee of DISTRICT. CONTRACTOR expressly warrants that it will not represent that it is an employee or servant of DISTRICT.
- 1.6. CONTRACTOR 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.

- 1.7. It is further understood and agreed by the parties hereto that CONTRACTOR 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 CONTRACTOR for accomplishing the results.
- 1.8. If, in the performance of this agreement, any third persons are employed by CONTRACTOR, such person shall be entirely and exclusively under the direction, supervision, and control of CONTRACTOR. 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 CONTRACTOR, and DISTRICT shall have no right or authority over such persons or the terms of such employment.
- 1.9. It is further understood and agreed that as an independent contractor and not an employee of DISTRICT, neither CONTRACTOR nor CONTRACTOR'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. CONTRACTOR shall not be covered by DISTRICT's worker's compensation insurance; nor shall CONTRACTOR 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 CONTRACTOR actual costs incurred, subject to a Maximum Cost Ceiling of \$5,000,000. Compensation for services shall be in accordance with the method and amounts described in Exhibit B, attached hereto and incorporated herein. CONTRACTOR 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. CONTRACTOR 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, CONTRACTOR 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. CONTRACTOR shall commence work upon receipt of DISTRICT's Notice to Proceed,

which shall be in the form of a letter signed by DISTRICT's Project Manager. DISTRICT's Notice to Proceed will authorize the Contracted Services described in Exhibit A with ceiling prices described in ARTICLE 2 - COMPENSATION. No work shall commence until the Notice to Proceed is issued.

ARTICLE 4 - TERMINATION

- 4.1. This Agreement may be terminated by DISTRICT immediately for cause or upon 10 days written notice, without cause, during the performance of the work.

If this Agreement is terminated CONTRACTOR 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 CONTRACTOR's delivery to DISTRICT of any and all documents, photographs, computer software, videotapes, and other materials provided to CONTRACTOR or prepared by CONTRACTOR 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 CONTRACTOR is entitled in the event of termination of this Agreement and CONTRACTOR shall be entitled to no other compensation or damages and expressly waives same. Termination under this ARTICLE 4 - TERMINATION shall not relieve CONTRACTOR of any warranty obligations or the obligations under 1.4 and 7.1.

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

ARTICLE 5 -PROJECT MANAGERS

- 5.1. DISTRICT designates David Behnken as its Project Manager, who shall be responsible for administering and interpreting the terms and conditions of this Agreement, for matters relating to CONTRACTOR's performance under this Agreement, and for liaison and coordination between DISTRICT and CONTRACTOR. CONTRACTOR 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 DISTRICT's representative, DISTRICT will notify CONTRACTOR of the change in writing.
- 5.2. CONTRACTOR designates (*insert CONTRACTOR 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 CONTRACTOR's designated personnel or subcontractor shall be subject to approval by the DISTRICT Project Manager.

ARTICLE 6 - CONTRACT EQUITY PROGRAM COMPLIANCE

- 6.1. CONTRACTOR expressly agrees that this Agreement is subject to DISTRICT's Contract Equity Program ("CEP"). CONTRACTOR is familiar with the DISTRICT's CEP and

Equal Opportunity Guidelines and has read and understood all of the program requirements. CONTRACTOR understands and agrees to comply with the CEP and all requirements therein, including each of the Good Faith Efforts. CONTRACTOR 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 D, which is attached hereto and incorporated herein. CONTRACTOR shall maintain records of the total amount actually paid to each subcontractor. Any change of CONTRACTOR's listed subcontractors shall be subject to approval by DISTRICT's Project Manager.

ARTICLE 7 - INDEMNIFICATION AND INSURANCE

7.1. Indemnification

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

- 7.2. CONTRACTOR shall perform part of the work at sites where DISTRICT's facilities are to be constructed, and which may contain unknown working conditions and contaminated materials. CONTRACTOR shall be solely responsible for the health and safety of CONTRACTOR's employees. CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR 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 CONTRACTOR 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., or within any state statute of similar effect governing the generation, storage, treatment, transportation, or disposal of wastes.

7.4. Insurance Requirements

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

ARTICLE 8 - NOTICES

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

(insert consulting firm's name)

(insert address)

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

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

Any notice which CONTRACTOR 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:

East Bay Municipal Utility District
P.O. Box 24055, MS 704
Oakland, CA 94623-1055
Att. David Behnken

or

Email: david.behnken@ebmud.com

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

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

ARTICLE 8 - MISCELLANEOUS

- 8.1. This Agreement represents the entire understanding of DISTRICT and CONTRACTOR 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.
- 8.2. This Agreement is to be binding on the successors and assigns of the parties hereto. The services called for herein are deemed unique and CONTRACTOR 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.
- 8.3. 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.

- 8.4. 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.
- 8.5. This Agreement and all matters relating to it shall be governed by the laws of the State of California.
- 8.6. 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. DISTRICT's waiver of the time for performing any act or condition hereunder does not constitute a waiver of the act or condition itself.
- 8.7. There shall be no discrimination in the performance of this Agreement, 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. CONTRACTOR shall not establish or permit any such practice(s) of discrimination with reference to the Agreement or any part. Any violation of this section shall be deemed to be in material breach of this Agreement.

Contractor 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.

CONTRACTOR shall include the nondiscrimination provisions above in all subcontracts.

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

ARTICLE 9 - TERM

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

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

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

EAST BAY MUNICIPAL UTILITY DISTRICT

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

Approved As To Form

By: _____
for the Office of General Counsel

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

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

EXHIBIT A
SCOPE OF SERVICES

SCOPE OF SERVICES

See RFP Exhibit A – Scope of Services

EXHIBIT B
COMPENSATION

COMPENSATION

East Bay Municipal Utility District (Project Title)

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 CONTRACTOR only the actual costs incurred, subject to the Maximum Cost Ceiling. CONTRACTOR certifies that the cost and pricing information used herein are complete, current and accurate. CONTRACTOR 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 CONTRACTOR services authorized shall be on a cost reimbursement basis and include Direct Labor, Indirect Costs, Subcontractor 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 CONTRACTOR an overhead expense equal to five percent (5%) percent of labor costs incurred by CONTRACTOR. CONTRACTOR 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 CONTRACTOR's office and DISTRICT offices or work locations within DISTRICT service area. For work outside of DISTRICT's service 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 CONTRACTOR in the DISTRICT Administration Building, located at 375 11th Street, Oakland, California. CONTRACTOR 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. Subcontractor Services

Subconsultant and subcontractor services shall be billed at cost (plus a 5% 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 70 cents per mile when CONTRACTOR is required to travel outside of DISTRICT's service area. Mileage will NOT be reimbursed for rental car expenses, where the rental agreement specifies unlimited mileage.
- 2.4.2. DISTRICT will pay for necessary and reasonable travel expenses provided the travel is approved in advance by DISTRICT Project Manager, and providing that:
 - Each expense is separately identified (air fare, hotel, rental car) with an amount and date incurred. Confirming documents may be requested.
 - Charged mileage for vehicle mileage shall not exceed the current allowable Internal Revenue Service rate.
 - Air travel is coach or economy rate for refundable tickets. Business and first class rates will not be reimbursed.
 - Lodging accommodations are moderately priced.
 - Meal charges are reasonable. (Reimbursement for meals will only be made in conjunction with out-of-town travel.)
 - Taxis or shuttles are used rather than rental cars whenever cost effective.
 - Rental cars are intermediate or compact class only.

2.5. Budget Amounts

<u>Contracted Services</u>	<u>Optional Services</u>	<u>Maximum Cost Ceiling</u>
\$3,000,000	\$2,000,000	\$5,000,000

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

2.6. Billing and Payment

CONTRACTOR shall invoice DISTRICT monthly for the actual costs incurred for work performed during the previous month as specified in Exhibit B and Exhibit B-1. Actual costs shall include Direct Labor, Indirect Costs, Subcontractor Services, and Other Direct Costs as specified herein. Actual costs shall be invoiced by task as described in EXHIBIT A – Scope of Services. 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 (0.25) 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 subcontractor(s) and outside service(s) shall be attached. Where CONTRACTOR 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 CONTRACTOR within thirty (30) days, upon receipt of a proper CONTRACTOR invoice, provided that all invoices are accompanied by sufficient cost documentation, and DISTRICT Form P-47 (Subcontractor Payment Report - CEP Participation), to allow the determination of the reasonableness and accuracy of said invoice

2.7.

The Maximum Cost Ceiling is in effect for the entire Scope of Services. If the authorized Maximum Cost Ceiling is reached, CONTRACTOR 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 DISTRICT Project Manager in such a manner so as not to exceed the Maximum Cost Ceiling. In no event shall the Maximum Cost Ceiling be increased unless there is a written amendment of this Agreement.

2.8. Budget Status Reports

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

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

- 2.9.1. All contractors and subcontractors of any tier bidding on, or offering to perform work on a public works project shall first be registered with the State Department of Industrial Relations (DIR) pursuant to Section 1725.5 of the Labor Code. No bid will be accepted nor any contract entered into without proof of the contractor and subcontractors' current registration with the DIR (LC § 1771.1).
- 2.9.2. All public works projects awarded after January 1, 2015, are subject to compliance monitoring and enforcement by the DIR (LC § 1771.4) and all contractors are required post job site notices, "as prescribed by regulation" (LC § 1771.4).
- 2.9.3. Pursuant to Section 1773 of the Labor Code, the DISTRICT has obtained from the Director of Industrial Relations of the State of California, the general prevailing rates of per diem wages and the general prevailing rates for holiday and overtime work in the locality in which the Work is to be performed, for each craft, classification, or type of worker needed to execute the contract. A copy of the prevailing wage rates is on file with the DISTRICT and available for inspection by any interested party at www.dir.ca.gov.
- 2.9.4. CONTRACTOR shall post a copy of the general prevailing rate of per diem wages at the jobsite pursuant to Section 1773.2 of the Labor Code.
- 2.9.5. Pursuant to Section 1774 of the Labor Code, CONTRACTOR and any of its subcontractors shall not pay less than the specified prevailing rate of wages to all workers employed in the execution of the contract.
- 2.9.6. 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 of its subcontractors. The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which such worker was paid less than the stipulated prevailing wage rate shall be paid to such worker by the CONTRACTOR.

- 2.9.7. General prevailing wage determinations have expiration dates with either a single asterisk or a double asterisk. Pursuant to California Code of Regulations, Title 8, Section 16204, the single asterisk means that the general prevailing wage determination shall be in effect for the specified contract duration. The double asterisk means that the predetermined wage modification shall be paid after the expiration date. No adjustment in the Maximum Agreement Ceiling will be made for the CONTRACTOR's payment of these predetermined wage modifications.
- 2.9.8. 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 Services. The payroll records shall be certified and shall be available for inspection in accordance with the provisions of Section 1776 of the Labor Code. Certified payroll records shall be on the forms provided by the DIR or contain the same information required on the Department's form.
- 2.9.9. For public works projects awarded on or after April 1, 2015, or that are still ongoing after April 1, 2016, no matter when awarded, each CONTRACTOR and subcontractor shall furnish the certified payroll related records as more specifically described above and in Labor Code section 1776 directly to the Labor Commissioner (see LC § 1771.4). These records shall be provided to the Labor Commissioner at least monthly or more frequently if required by the terms of the contract. For exception on projects covered by collective bargaining agreements like a PLA, please see Labor Code section 1771.4.
- 2.9.10. In the event of noncompliance with the requirements of Section 1776 of the Labor Code, 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, CONTRACTOR shall, as a penalty to the State or the DISTRICT, forfeit the amount set forth in Section 1776 of the Labor Code for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payments then due.

- 2.9.11. Pursuant to the provisions of Sections 1810, et seq. of the Labor Code the time of service of any worker employed upon the work shall be limited and restricted to eight hours during any one calendar day, and forty hours during any one calendar week, unless work performed by employees of CONTRACTOR in excess of eight hours per day, and forty hours during any one calendar week, shall be permitted upon compensation for all hours worked in excess of eight hours per day at not less than one and one half times the basic rate of pay.
- 2.9.12. 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 CONTRACTOR or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week in violation of the provisions of Labor Code, Sections 1810, et seq.
- 2.9.13. 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 Services; the record shall be kept open at all reasonable hours to the inspection of the DISTRICT and to the Division of Labor Standards Enforcement of the State of California.
- 2.9.14. In the performance of a public works contract, 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 CONTRACTOR or any subcontractor willfully fails to comply with this requirement CONTRACTOR or subcontractor shall be subject to the penalties for noncompliance in Labor Code section 1777.7.
- 2.9.15. 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 Contractor. The following is provided to show format.)

EXHIBIT B-1 – Cost Distribution (EXAMPLE)

East Bay Municipal Utility District

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

* ODCs = Other Direct Costs.

** Includes any prime contractor markup in subcontractor hourly rates.

*** *Insert hourly rate.*

EXHIBIT C

INSURANCE REQUIREMENTS

See RFP Exhibit C – General Requirements

EXHIBIT D

CEP COMPLIANCE

See RFP Exhibit D – Contract Equity Program Forms

East Bay Municipal Utility District
General Environmental Services Contract

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

* Does not include CONTRACTOR's markup of 5%.

** Based on a Maximum Cost Ceiling amount of \$5,000,000.