

REQUEST FOR PROPOSAL (RFP)

for Climate Change Analysis for Long Term Water Resources Plan WRD-2025-1

ADDENDA

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

CONTACT

Ginger Chen, Associate Civil Engineer
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RESPONSE DUE

April 7, 2025
4:00 p.m. PST

SUBMIT ELECTRONICALLY TO*

Sabrina Chen, EBMUD
sabrina.cheng@ebmud.com

**Hardcopy proposals will not be accepted*

EAST BAY MUNICIPAL UTILITY DISTRICT

RFP for Climate Change Analysis for Long Term Water Resources Plan

WRD-2025-1

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I. STATEMENT OF WORK

A. SCOPE

East Bay Municipal Utility District (District) intends to award up to a three-year contract to the Proposer(s) who best meets the District's requirements.

The Urban Water Management Plan (UWMP) is the District's long term water resources plan that outlines the long-term strategies for managing water resources to ensure adequate water supplies are available to meet current and future demands. Per State regulations (CA Water Code Sections 10608, 10609, 10610.2, 10630, 10631, and 10635) the UWMP needs to include an evaluation of the potential impacts of climate change to the District's water supply. The District is seeking consulting support necessary to update the climate change analysis in the upcoming and future UWMP that reflects a risk-based vulnerability approach to climate change. This project will satisfy the regulatory requirement to evaluate climate change for the District's water supply system and provide an assessment of impacts and development of adaptation strategies that the District can implement to improve water supply reliability.

The scope of work for this project includes identifying relevant metrics (e.g., total system storage, frequency of rationing, and carryover storage) that can be used to characterize the adequacy of system performance with climate change through a risk-based vulnerability assessment (VA) study. The findings will be used by District staff to integrate into the UWMP.

Details of project background, objectives, and tasks are presented in Section I.C. Specific Requirements of this RFP.

B. PROPOSER QUALIFICATIONS

1. Proposer Minimum Qualifications

- a. Proposer, Proposer's principal, or Proposer's staff and any subconsultants shall have been regularly engaged in the business of providing risk-informed future climate scenario development or vulnerability assessment for California water supplier(s) or state agencies for at least five years.
- b. Proposer shall possess all permits, licenses, and professional credentials necessary to perform services as specified under this RFP.

C. SPECIFIC REQUIREMENTS

East Bay Municipal Utility District (District) provides high-quality drinking water for 1.4 million customers in Alameda and Contra Costa counties in northern California. The District's wastewater system serves 740,000 customers and helps protect the ecosystem

of San Francisco Bay. EBMUD is a not-for-profit public agency established in 1923. EBMUD's water supply begins at the Mokelumne River watershed in the Sierra Nevada and extends 90 miles to the East Bay.

The District captures runoff and snowmelt from 621 square miles of mostly undeveloped public and private watershed lands of the Mokelumne River and collects it at Pardee and Camanche Reservoirs. The Mokelumne Aqueducts convey the Mokelumne River supply from Pardee Reservoir, located about 10 miles upstream of Camanche Reservoir, across the Sacramento-San Joaquin River Delta to local storage and treatment facilities in the East Bay. Based on the historical average, approximately 90 percent of raw water entering the District's system originates from the Mokelumne River watershed and approximately 10 percent originates as runoff from the watershed lands in the East Bay. Pardee Reservoir is used principally for EBMUD's municipal water. Secondary uses include recreation for the public; protection and enhancement of the lower Mokelumne River ecosystem and fishery resources; to meet other water rights holders' obligations; and power generation. Camanche Reservoir is operated jointly with Pardee Reservoir to maintain numerous downstream obligations, which include stream flow for fisheries and riparian habitat, flood control, recreation amenities, and obligations to downstream diverters.

Annual precipitation and stream flow in the Mokelumne River watershed upstream of Camanche Dam are extremely variable from month to month and from year to year. Most precipitation normally falls between November and March and very little falls between late spring and early fall. Peak flows in the Mokelumne River normally occur during winter storms or during the spring snow melt season. These flows decrease to a minimum in late summer or fall.

The uncertainty of future conditions adds complexity when doing long-term water supply planning. The District's water supply sources and distribution system are affected by many factors with varying degrees of impact. Droughts, water quality impacts due to wildfires, and climate variations can adversely affect the availability of District's water supplies. In particular, multi-year droughts have significantly diminished the water supply available to District customers. Due to the sizes and geographic locations of Pardee and Camanche Reservoirs, the natural hydrologic variability is a significant contributor to uncertainty in forecasting water supply availability from year to year. There are many existing sources of uncertainties associated with water supply reliability annually, with climate change potentially exacerbating them further.

Climate change is a critical component of long-term water resources planning as it impacts both the demand need and supply reliability. Current planning will benefit from early identification of potential vulnerabilities and evaluation of possible adaptations to address them. The District is seeking professional services to perform climate change analysis to evaluate the vulnerability of the District's water system and need for water

assessment using a robust approach that reflects the latest advances in climate change science.

The District performed a climate change analysis for the 2020 Urban Water Management Plan (UWMP) using guidance from California Department of Water Resources' expert advisory committee, the Climate Change Technical Advisory Group¹, on the use of climate models and associated technical tools for water resources planning. The analysis considered two climate variables (rainfall and air temperature) to forecast changes in water consumption and supply. Details of this analysis is available in Chapter 3 and Attachment 1 to the 2020 UWMP linked here: [Urban Water Management Plan :: East Bay Municipal Utility District](#)

The proposed updated approach should involve performing sensitivity analysis of the water system by integrating future uncertainty with external factors and available climate model projections to evaluate metrics related to identified potential vulnerabilities in a water system. Several references are listed under Task 2 that the proposer can review to better understand the type of analysis the District is envisioning. The District recognizes there are sources of uncertainty associated with climate change analysis such as Global Climate Models (GCM) construct, resolution of downscaled GCMs, greenhouse gas emissions, natural hydrologic variability, and data collection.

In general, however, the analysis should provide information about how climate change, regulatory, and operational considerations affect the District's ability to meet municipal delivery, stream flow regulation, fishery needs, and temperature management. The need to explore various scenarios that reflect a large range of uncertainty is essential to support more informed risk analysis and planning so that appropriate adaptation measures can be identified and prioritized through the District's various strategic plans moving forward.

The general approach of the vulnerability assessment is to develop and use a suite of interconnected computer models and supporting analytical tools. The District has some tools in-house that can potentially be used to perform the climate change analysis. For watershed modeling, the District has an event-based HEC-HMS model of the Mokelumne River watershed that was developed to perform Probable Maximum Precipitation and Probable Maximum Flood analysis for Pardee and Camanche facilities. The HEC-HMS model could potentially be converted to run continuous simulations to model inflows (regulated) to Pardee and Camanche Reservoirs under future temperature and precipitation scenarios. The resulting regulated inflows from HEC-HMS can then be run through the District's water supply planning model developed using Riverware. The Riverware model integrates the physical water system characteristics, operating rules, water demands, instream flow requirements, water rights, and other

¹ DWR, CCTAG, August 2015. Perspectives and Guidance for Climate Change Analysis.

obligations, along with results that can be used to evaluate various metrics of interest (e.g., total system storage).

The District, to support the need for water analysis as part of the Water Shortage Contingency Plan, also wants to review the design drought that has been used for long term planning since the 1990s. In particular, the District wants to understand if the design drought, in light of the latest droughts as well as climate change, is still the appropriate scenario to use in evaluating longer term water supply reliability of 85% for the customers as directed under the District's current policy.

Task 1 – Project Management

1. Provide overall project management to ensure all tasks are fully completed and within the allocated budget and timeframe. This project is a multi-year effort with major milestones spanning over the three years starting with a Board Workshop in the Fall of 2025, an UWMP progress report in early 2026, and a final report in 2027. The final vulnerability assessment results and significant findings will be fed into the 2030 UWMP. Additionally, include an appropriate number of project meetings and workshops to coordinate with the District (i.e., phone/virtual and in-person meetings). As part of the workshop, the Consultant will assist District staff in consulting and potentially involving with external parties to provide an opportunity for them to understand the climate change analysis process and provide opportunities to share information and express concerns. Consultant will be expected to lead/facilitate as requested and prepare meeting and workshop materials and minutes.
2. Consultant is required to manage any subconsultants, cost accounting, and provide monthly progress reports and invoices to the District's Project Manager. Progress reports shall summarize work completed. Invoices shall be accompanied by progress reports.
3. The proposal should include a detailed description of all project tasks, including those suggested in this scope of work and any proposed changes, additions, or recommendations. If the Consultant believes that the project can be enhanced in any way by the addition of other tasks or the deletion of any specified tasks, such information should be included in the proposal.

Task 2 – Data Collection and Risk/Vulnerability Assessment

1. The Consultant is expected to conduct the necessary investigations to obtain essential information required to develop the vulnerability assessment.

2. The Consultant will layout the approach and steps in doing the climate stress test and vulnerability assessment including the tools, data, and model inputs and outputs, and obtain District's concurrence. Important to note that the HEC-HMS model is preferred currently for modeling the watershed and the Consultant should include an optional line item to develop the continuous model in collaboration with the District; however, the District may be developing the continuous model as part of another project and could provide it to the Consultant depending on the timeline of the project. The District also has an existing water supply system model using Riverware that should be used to do the stress test. It's currently envisioned that the outputs from the HEC-HMS watershed model will be input into the District's Riverware Model to evaluate the changes in the metrics of interest and the stress test findings will feed into the vulnerability assessment.
3. The Consultant will procure/generate the weather generator (WGEN) to develop weather traces (i.e., perturbed hydrology) that cover projected ranges of future climate change for California as informed by the latest global climate models (e.g., precipitation, temperature) required for the climate change analysis and convert to the necessary formats required for the models (watershed and water supply).
4. The District will provide available information requested by the Consultant, which are necessary to assist in the development of the climate stress test process; the District may opt to run the HEC-HMS models in-house with the Consultant involved in developing the assumptions/parameters selections and reviewing the results.
5. The District will determine qualitative and quantitative metrics associated with specific levels of performance with Consultant input.
6. The Consultant shall use the procured WGEN to develop weather traces of future climate change and running those through the watershed/water supply system (i.e., HEC-HMS and Riverware) models to determine impacts to key performance metrics (e.g., total system storage, frequency of rationing, and carryover storage).
7. The Consultant shall assess current and future vulnerabilities in District's water supply system under climate change. The reference reports listed below provide an example of the assessment envisioned by the District.

Task 3 – Design Drought Evaluation

1. Multi-droughts can occur at any time and their length and degree of severity is uncertain. The District plans for the worst case scenario and currently uses a design drought that was developed about four decades ago. To ensure that it is still the worst case scenario, the Consultant shall review the design drought in light of the recent droughts that have occurred as well as climate change. The evaluation should include paleo analysis to capture the historical climatology.

Reference reports from other agencies are provided to be considered for preparing the District's Project:

1. California Department of Water Resources. 2019b. *Decision Scaling Evaluation of Climate Change Driven Hydrologic Risk to the State Water Project*. Final Report. Sacramento (CA). 107 pp. [Government Report.]
2. California Department of Water Resources. 2023. *Risk-Informed Future Climate Scenario Development for the State Water Project Delivery Capability Report*. Sacramento (CA). 112 pp. [Government Report.]
3. The Water Research Foundation, University of Massachusetts Amherst, Deltares, San Francisco Public Utilities Commission. 2021. *Long Term Vulnerability Assessment and Adaptation Plan for the San Francisco Public Utilities Commission Water Enterprise - Phase I*. 287 pp.
4. Hydrosystems Research Group, University of Massachusetts Amherst, Santa Cruz Water Department. 2024. *Vulnerability Assessment and Adaptation Planning for Santa Cruz Water Department*. 94 pp.

Task 3 – Deliverables

1. Create a detailed work plan for the project.
2. Communicate with the District at various project milestones by conducting workshops (hybrid – in person and virtual) to share information, discuss and vet at decision points.
3. Summarize data in tables and document findings and results in technical memoranda and several iterations of the final report for District to review and comment.
4. Collaborate with the District to write a section of the 2025 UWMP considering climate change impacts to the District's water supply system. Contents include, but are not limited to, climate change approach and methodology, metrics development associated with system performance levels, preliminary findings from modeling, and potential adaptation strategies.

5. Collaborate with the District to draft a narrative for the 2030 UWMP by incorporating the final results and adaptation strategies from Task 4.
6. Submit final report and communicate the analysis and findings in presentation format to the District. Provide all the data, files, figures used in the Project at the conclusion of the final deliverable.

Optional Task 4 – Fast Track Schedule

1. In support of the 2025 UWMP submittal deadline (July 1, 2026), develop a detailed and compressed schedule to evaluate a 'leaner' version of the climate change analysis by selecting book end scenarios to model, which could provide insight into early vulnerability assessment results prior to completing the full-scale analysis.

D. DELIVERABLES / REPORTS

1. Specific deliverables are listed by task in the preceding section Section I.C. Specific Requirement.
2. All deliverables in draft, revised draft, and final versions will be submitted in the following format and applies to i) meeting handouts and agendas, ii) meeting summaries, iii) presentations, iv) project schedules, v) comment reviews of District produced reports, and vi) technical memoranda:
 - a. Native format files, such as Microsoft Word, PowerPoint, etc,
 - b. All digital files for the climate change analysis and the file format will be determined when the modeling approach is agreed upon between the District and the retained Consultant, and
 - c. Delivery via email, or if the file size exceeds the District's system limits of 25MB, the District's Project SharePoint site, or a secured website provided by the Consultant. Disks or flash drives will not be accepted because they are not compatible with the security requirements of the District system.
3. In addition to requirements in the entirety of Section D.2 Deliverables/Reports, final version deliverables will be submitted in the following format and applies to i) meeting handouts and agendas, ii) meeting summaries, iii) presentations, iv) project schedules, and v) technical memorandums:
 - a. One (1) electronic copy in PDF format covering the entirety of the work product in a text-searchable format and with section bookmarks (only for lengthy documents, or as requested)

4. The following review schedule applies to draft, revised draft, and final version of deliverables for i) comment reviews of District produced reports, and ii) technical memoranda:
 - a. At least 4-weeks ahead of the final deliverable due date, submit a draft for District review.
 - b. Allocate approximately 3 weeks for the District's review of the draft; although, the District could request additional time depending on the size/complexity of the deliverable,
 - c. Submit a revised draft that responds to District comments,
 - d. Allocate 7 business days for the District's review of the revised draft, and
 - e. Submit a final that incorporates any District comments on the revised draft.
5. The following review schedule applies to draft, revised draft, and final version of deliverables for i) meeting handouts and agendas, ii) meeting summaries, and iii) presentations:
 - a. At least 2-weeks ahead of the final deliverable due date, submit a draft for District review,
 - b. Allocate at least 5 business days for the District's review of the draft,
 - c. Submit a revised draft that responds to District comments,
 - d. Allocate 5 business days for the District's review of the revised draft, and
 - e. Submit a final that incorporates any District comments on the revised draft.
6. Monthly Progress Reports – One (1) electronic copy to accompany monthly invoices. Progress reports should describe work performed and associated costs per project task.

II. CALENDAR OF EVENTS

EVENT	DATE
RFP Issued	March 3, 2025
Proposal Due	April 7, 2025 by 4:00pm
Complete Selection Process	April 17, 2025
Negotiate and Finalize Contract	May 2, 2025
District's Board Approval	May 27, 2025
Anticipated Contract Start Date	May 30, 2025
Project Kickoff Meeting	June 2025
Board Workshop	November 2025
Progress Meetings and Workshops (as applicable)	*June 2025 through June 2027
Technical Memoranda and Workshops (as applicable)	*October 2025 through June 2027
2025 UWMP Progress Report	January 2026
Draft Reports	*May 2026 through June 2027
Final Report	*June 2027

*Pending Consultant's proposed schedule and District's concurrence

Note: All dates are subject to change by District.

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

III. DISTRICT PROCEDURES, TERMS, AND CONDITIONS

A. RFP ACCEPTANCE AND AWARD

1. RFP responses will be evaluated by the Selection Committee and will be scored and ranked in accordance with the RFP section entitled "Evaluation Criteria/Selection Committee."
2. The Selection Committee will recommend award to the Proposer who, in its opinion, has submitted the RFP response that best serves the overall interests of the District. Award may not necessarily be made to the Proposer with the lowest overall cost.

3. The District reserves the right to award to a single or to multiple General or Professional Service Providers, dependent upon what is in the best interest of the District.
4. The District has the right to decline to award this contract or any part of it for any reason.
5. Any specifications, terms, or conditions issued by the District, or those included in the Proposer's submission, in relation to this RFP, may be incorporated into any purchase order or contract that may be awarded as a result of this RFP.
6. Award of contract. The District reserves the right to reject any or all proposals, to accept one part of a proposal and reject the other, unless the proposer stipulates to the contrary, and to waive minor technical defects and administrative errors, as the interest of the District may require. Award will be made, or proposals rejected by the District as soon as possible after proposals have been opened.

B. EVALUATION CRITERIA/SELECTION COMMITTEE

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

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

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

The Evaluation Criteria are as follows:

	Evaluation Criteria
A.	Technical Criteria (10): In each area described below, an evaluation will be made of the probability of success of, and risks associated with, the RFP response:

	<ol style="list-style-type: none"> 1. System Design - A comparison will be made of the proposed <insert description here> systems. Additional credit will be given for features of the proposed design that offer enhanced utility, ease of use, or ease of integration with existing <insert description here> equipment and systems. 2. Software Design and Development - The evaluation will compare the proposed software capabilities with the requirements of this RFP in terms of the software's compatibility with existing <insert description here> management and data processing systems. 3. Life-Cycle Support - An assessment will be made of the scope and extent of resources required to operate and maintain the proposed <insert description here> system. 4. Ancillary Services - A comparison will be made of the proposed services with the requirements of this RFP. Credit will be given for convenience, responsiveness, and technical expertise.
B.	<p>Estimated Project Cost (10):</p> <p>The Proposer's estimated project cost will be evaluated by:</p> <ol style="list-style-type: none"> 1. Reasonableness (i.e., does the proposed pricing accurately reflect the Proposer's effort to meet requirements and objectives?); 2. Realism (i.e., is the proposed cost appropriate to the nature of the products and services to be provided?); and 3. Affordability (i.e., the ability of the District to finance this project). <p>Consideration of price in terms of overall affordability may be controlling in circumstances where two or more RFP responses are otherwise judged to be equal, or when a superior RFP response is at a price that the District cannot afford.</p>
C.	<p>Implementation Plan and Schedule (15):</p> <p>An evaluation will be made of the likelihood that the Proposer's implementation plan and schedule will meet the District's schedule. Additional credit will be given for the identification and planning for mitigation of schedule risks which the Proposer believes may adversely affect any portion of the District's schedule.</p>
D.	<p>Relevant Experience (15):</p> <p>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?
E.	References (See Exhibit A – RFP Response Packet) (5): If a short list process is used for a solicitation, references are only performed on the shortlisted Proposers and the score for reference checks is not included in the preliminary short list score.
F.	Oral Presentation and Interview (15): The oral interview may consist of standard questions asked of each of the Proposers and specific questions regarding the specific RFP response.
G.	Understanding of the Project (15): RFP responses will be evaluated against the RFP specifications and the questions below: <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?
H.	Methodology (15): RFP responses will be evaluated against the RFP specifications and the questions below: <ol style="list-style-type: none"> 1. Does the methodology depict a logical approach to fulfilling the requirements of the RFP? 2. Does the methodology match and contribute to achieving the objectives set out in the RFP? 3. Does the methodology interface with the District's time schedule?
I.	Contract Equity Program (5): Proposer shall be eligible for SBE or DVBE preference points if they are a certified small business entity, as described in the guidelines contained in Exhibit A-Contract Equity Program, <u>and</u> they check the appropriate box, requesting preference, in Exhibit A-Proposer Information and Acceptance. Qualified DVBEs and/or SBEs will receive an additional 5 points to their total score.

c. **PRICING**

1. Prices quoted shall be firm for the first 36 months of any contract that may be awarded pursuant to this RFP.
2. All prices quoted shall be in United States dollars.

3. Price quotes shall include any and all payment incentives available to the District.
4. Proposers are advised that in the evaluation of cost, if applicable, it will be assumed that the unit price quoted is correct in the case of a discrepancy between the unit price and extended price.

D. NOTICE OF INTENT TO AWARD AND PROTESTS

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

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

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

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

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

Protests must be mailed, hand delivered, or emailed to the Manager of Purchasing, Mailstop 102, East Bay Municipal Utility District, 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 District's acceptance of product(s) meeting all specified requirements, and/or the complete and satisfactory performance of services, the District will render payment within thirty (30) days of receipt of a correct invoice.
2. The District will notify the General or Professional Service Provider of any invoice adjustments required.
3. Invoices shall contain, at a minimum, District purchase order number, invoice number, remit to address, and itemized services description.
4. The District will pay General or Professional Service Provider in an amount not to exceed the negotiated amount(s) which will be referenced in the agreement signed by both parties.

F. LIQUIDATED DAMAGES

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

IV. RFP RESPONSE SUBMITTAL INSTRUCTIONS AND INFORMATION

A. DISTRICT CONTACTS

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

FOR INFORMATION REGARDING TECHNICAL SPECIFICATIONS:

Attn: Ginger Chen, Associate Civil Engineer

EBMUD-Water Resources Planning Division

E-Mail: ginger.chen@ebmud.com

PHONE: (510) 287-1083

FOR INFORMATION ON THE CONTRACT EQUITY PROGRAM:

Attn: Contract Equity Office

PHONE: (510) 287-0114

AFTER AWARD:

Attn: Ginger Chen, Associate Civil Engineer

EBMUD-Water Resources Planning Division

E-Mail: ginger.chen@ebmud.com

PHONE: (510) 287-1083

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 sabrina.cheng@ebmud.com, Subject: "RFP – Climate Change Analysis Proposal Submittal, WRD-2025-1". The District's email has limitations on attachment size. Make sure your response is less than 25 megabytes. If the file exceeds the limit, you will need to send multiple emails. Proposers are solely responsible for ensuring timely delivery of the proposals. The District shall not be responsible for any issues related to transfer of files through email. You may call at (510) 287-1109 to check receipt of the proposal.
2. All costs required for the preparation and submission of an RFP response shall be borne by the Proposer.
3. California Government Code Section 4552: In submitting an RFP response to a public purchasing body, the Proposer offers and agrees that if the RFP response is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the Proposer for sale to the purchasing body pursuant to the RFP response. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the Proposer.
4. Proposer expressly acknowledges that it is aware that if a false claim is knowingly submitted (as the terms "claim" and "knowingly" are defined in the California False Claims Act, Cal. Gov. Code, §12650 et seq.), the District will be entitled to civil remedies set forth in the California False Claim Act.
5. The RFP response shall remain open to acceptance and is irrevocable for a period of one hundred eighty (180) days, unless otherwise specified in the RFP documents.
6. It is understood that the District reserves the right to reject any or all RFP responses.

C. RESPONSE FORMAT

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



EXHIBIT A

RFP RESPONSE PACKET

**RFP For – Climate Change Analysis for Climate Change Analysis for
Long Term Water Resources Plan
WRD-2025-1**

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

From: _____
(Official Name of Proposer)

RFP RESPONSE PACKET GUIDELINES

- **SUBMITTAL SHALL CONTAIN THE FOLLOWING:**
 - **EXHIBIT A – RFP RESPONSE PACKET**
 - **INCLUDING ALL REQUIRED DOCUMENTATION AS DESCRIBED IN “EXHIBIT A-REQUIRED DOCUMENTATION AND SUBMITTALS”**
- **PROPOSERS THAT DO NOT COMPLY WITH THE REQUIREMENTS, AND/OR SUBMIT AN INCOMPLETE RFP RESPONSE MAY BE SUBJECT TO DISQUALIFICATION AND THEIR RFP RESPONSE REJECTED IN WHOLE.**
- **IF PROPOSERS ARE MAKING ANY CLARIFICATIONS AND/OR AMENDMENTS, OR TAKING EXCEPTION TO ANY PART OF THIS RFP, THESE MUST BE SUBMITTED IN THE EXCEPTIONS, CLARIFICATIONS, AND AMENDMENTS SECTION OF THIS EXHIBIT A – RFP RESPONSE PACKET. THE DISTRICT, AT ITS SOLE DISCRETION, MAY ACCEPT AMENDMENTS/EXCEPTIONS, OR MAY DEEM THEM TO BE UNACCEPTABLE, THEREBY RENDERING THE RFP RESPONSE DISQUALIFIED.**
- **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_____



ESTIMATED PROJECT COSTS

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

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



REQUIRED DOCUMENTATION AND SUBMITTALS

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

1. **Table of Contents**: The proposal shall include a table of contents listing the individual sections of the proposal and their corresponding page numbers.
2. **Letter of Transmittal**: RFP response shall include a description of the Proposer's capabilities and approach in providing its services to the District and provide a brief synopsis of the highlights of the RFP response and overall benefits to the District. This synopsis should not exceed three (3) pages in length and should be easily understood.
3. **Key Personnel**: RFP response shall include a complete list of all key personnel associated with the RFP. This list must include all key personnel who will provide services/training to District staff and all key personnel who will provide maintenance and support services. For each person on the list, the following information shall be included:
 - (a) The person's relationship with the Proposer, including job title and years of employment with the Proposer;
 - (b) The role that the person will play in connection with the RFP;
 - (c) The person's telephone number, fax number, and e-mail address;
 - (d) The person's educational background; and
 - (e) The person's relevant experience, certifications, and/or merits

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

4. **Description of the Proposed Services**: RFP response shall include a description of the terms and conditions of services to be provided during the contract term including response times. The description shall contain a basis of estimate for services including its scheduled start and completion dates, the number of Proposer's and District personnel involved, and the number of hours scheduled for each person. The description shall identify spare or replacement parts that will be required in performing maintenance services, the anticipated location(s) of the spare parts, and how quickly the parts shall be available for repairs. Finally, the description must: (1) specify how the services in the RFP response will meet or exceed the requirements of the District; (2) explain any special resources or approaches that make the services of the Proposer particularly advantageous to the District; and (3) identify any limitations or

restrictions of the Proposer in providing the services that the District should be aware of in evaluating its RFP response to this RFP.

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

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



REFERENCES
RFP For – Climate Change Analysis for Long Term Water Resources Plan
WRD-2025-1

Proposer Name: _____

Proposer must provide a minimum of 3 references.

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

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

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

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

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



EXCEPTIONS, CLARIFICATIONS, AMENDMENTS

RFP For - Climate Change Analysis for Long Term Water Resources Plan WRD-2025-1

Proposer Name: _____

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

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

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. Cyber 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: Cyber Liability Insurance with minimum limits as follows:

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

Aggregate Limit: \$2,000,000

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

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

E. Coverage shall include, but not be limited to the following:

1. Liability arising from the theft, dissemination and/or use of confidential information, including but not limited to, personally identifiable information (PII), protected health information (PHI), security codes, access codes, passwords, or personal identification numbers (PINS).
2. Notification costs, credit monitoring and other expert services, regulatory fines and penalties, and defense costs.
3. Network security liability arising from the unauthorized use of, access to, or tampering with computer systems.
4. Liability arising from the introduction of a computer virus into, or otherwise causing damage to vendor (first party) or customer's (third party) computer, computer system, network or similarly related property and the data, software and programs thereon.

Verification of Cyber Liability Insurance Coverage

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

Self-Insured: Amount: \$ _____

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

Policy Number: _____

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

Insurance Carrier Name: _____

Insurance Broker or Agent: Print Name: _____

Insurance Broker or Agent's Signature: _____

Technology Errors and Omissions 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: Technology Errors and Omissions Liability Insurance with minimum limits as follows:
 - Each Claim or Occurrence Limit: \$2,000,000
 - Aggregate Limit: \$2,000,000
- D. If Coverage is written on a claims-made form, the following shall apply:
 - 1. The retroactive date must be shown, and must be before the date of the Agreement or the beginning of the Services.
 - 2. Insurance must be maintained and evidence of insurance must be provided for a minimum of three (3) years after completion of the Services.
 - 3. If claims-made coverage is canceled or non-renewed, and not replaced with another claims-made policies form with a retroactive date prior to the effective date of the Agreement, CONTRACTOR must purchase an extended period of coverage for a minimum of three (3) years after completion of the Services
- E. Coverage shall include, but not be limited to the following:
 - 1. Theft, dissemination and/or use of confidential or personally identifiable information (PII), including breach response costs, credit monitoring and regulatory fines and penalties from such theft, dissemination or use of the confidential information;
 - 2. Network security liability arising from the unauthorized use of access to, or tampering with computer systems;
 - 3. Liability arising from the failure of technology products (software) required under the contract for Contractor to properly perform the services intended;
 - 4. Electronic Media Liability arising from personal injury, plagiarism or misappropriation of ideas, domain name infringement or improper deep-linking or framing, and infringement or violation of intellectual property rights;
 - 5. Liability arising from the failure to render professional services.

Verification of Technology Errors & Omissions Liability Insurance Coverage

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

Self-Insured: Amount: \$ _____

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

Policy Number: _____

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

Insurance Carrier Name: _____

Insurance Broker or Agent Print Name: _____

Insurance Broker or Agent’s Signature: _____

VI. Excess and/or Umbrella Liability Insurance Coverage

- A. CONTRACTOR’S insurance shall be primary, and any insurance or self-insurance procured or maintained by the DISTRICT shall not be required to contribute to it.
- B. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policies or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the CONTRACTOR.
- C. Minimum Requirements: It is expressly understood by the parties that CONTRACTOR’S Excess and/or Umbrella Liability policies shall, at minimum, comply with all insurance requirements set forth within this Agreement, 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: _____

**EXHIBIT C CONSULTING AND PROFESSIONAL SERVICES
AGREEMENT**

**(Standard Consulting Agreement for
Contracts Greater than \$80,000 - Revised 4/24)**

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

THIS Agreement is made and entered into this _____ day of *(month)*, 202_, by and between **EAST BAY MUNICIPAL UTILITY DISTRICT**, a public entity, hereinafter called "DISTRICT," and *(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 *(need for project)*; and

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

WHEREAS, CONTRACTOR has submitted a proposal to provide consulting services for *(state type - "preparation of planning documents", "preparation of design documents", or "construction management support services")* for the *(insert project title)* and 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 *(insert type - for example "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 **\$(insert dollars)**. 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.

(Include the following paragraph only if your scope of services includes

Optional Services.)

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

ARTICLE 4 - TERMINATION

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

(Optional)

- 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 (*insert District Project Manager's name*) as its Project Manager, who shall be responsible for administering and interpreting the terms and conditions of this Agreement, for matters relating to 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. *(The following sentence is optional.)* CONTRACTOR hereby commits an average of *(1 to 100)* percent of *(CONTRACTOR Project Manager's name)* time on this project for the duration of the project.

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.

(Paragraph 6.2 to be used when there is subcontracting/subconsulting opportunities. See CEP office for details. Delete 6.2 if not applicable.)

- 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, expenses, claims, suits, and damages, including attorneys' fees, arising out of or pertaining to, or relating to CONTRACTOR's, its associates', employees', subcontractors', or other agents' negligence, recklessness or willful misconduct in the operation and/or performance under this Agreement.

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

7.2. 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:

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

P.O. Box 24055

Oakland, CA 94623-1055

Email: (Insert Project Manager's email)

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 9 - MISCELLANEOUS

- 9.1. 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.

- 9.2. This Agreement is to be binding on the successors and assigns of the parties hereto. The services called for herein are deemed unique and 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.
- 9.3. Should any part of this Agreement be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement can be interpreted to give effect to the intentions of the parties.
- 9.4. Multiple copies of this Agreement may be executed by the parties and the parties agree that the Agreement on file at the DISTRICT is the version of the Agreement that shall take precedence should any differences exist among counterparts of the Agreement.
- 9.5. This Agreement and all matters relating to it shall be governed by the laws of the State of California.
- 9.6. 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.
- 9.7. 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.

- 9.8. 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 10 - 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.

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

East Bay Municipal Utility District

(insert Project Title)

I. CONTRACTOR SERVICES

CONTRACTOR shall provide the following:

Contracted Services

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

Optional Services

(State each task with associated task number)

II. PROJECT SCHEDULE

(List schedule milestones and completion dates)

EXHIBIT B
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 *(insert overhead rate)* 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

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

2.4. Other Direct Costs

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

- 2.4.1. Automobile expenses at *(insert rate)* cents per mile when 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>
\$(dollars)	\$(dollars)	\$(dollars)

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

The Maximum Cost Ceiling shown above is based upon the cost estimate and labor hours attached hereto as EXHIBIT B-1 – Cost Distribution and EXHIBIT B-2 – Labor 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. 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.

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

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

EXHIBIT B-1 – Cost Distribution

East Bay Municipal Utility District
(Project Title)

	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.***

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

EXHIBIT B-2 – Labor Distribution*

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

	CONTRACTOR				Subcontractors***							
					Subcontractor # 1			Subcontractor # 2				
	Project Manager	Project Engineer	Drafting	Subtotal	Project Engineer	Assist. Engineer	Subtotal	Project Engineer	Assist. Engineer	Subtotal	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												

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

EXHIBIT C

INSURANCE REQUIREMENTS

- The [District Insurance Requirements Template \(incl. Verifications of Insurance\)](#)

EXHIBIT D

CEP COMPLIANCE

(Completed P-25 or EEO-1 as required for all contracts over \$30K.

See [CEP and EEO GUIDELINES and FORMS](#)

CEP COMPLIANCE

East Bay Municipal Utility District
(Project Title)

<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. *(Include this footnote only if your contract includes markup on subcontractors.)*
- ** Based on a Maximum Cost Ceiling amount of *\$(dollars)*.



EXHIBIT D

IRAN CONTRACTING ACT CERTIFICATION

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

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

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

CERTIFICATION FOR PARAGRAPH 1:

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

Firm: _____

By: _____ Date: _____
(Signature of Bidder)

Title: _____

Signed at: _____ County, State of: _____

OR

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



EXHIBIT E

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 E to the title and/or filename.