



# **REQUEST FOR PROPOSAL (RFP) for Construction Management (CM) and Inspection Services RFP 575-25-01**

## **ADDENDA**

Prospective bidders are responsible for reviewing any published addenda regarding this bid at [ebmud.com/business-center/](http://ebmud.com/business-center/)

## **CONTACT**

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## **RESPONSE DUE**

June 2, 2025  
4:00 p.m. PST

## **SUBMIT ELECTRONICALLY TO\***

**EBMUD Construction Division**  
[javier.prospiero@ebmud.com](mailto:javier.prospiero@ebmud.com)

*\*Hardcopy proposals will not be accepted*

**EAST BAY MUNICIPAL UTILITY DISTRICT**  
**RFP for Construction Management (CM) and Inspection Services**  
**RFP 575-25-01**

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## **I. STATEMENT OF WORK**

### **A. SCOPE**

It is the intent of this RFP to describe the construction management (CM) and inspection services needed for a number of capital improvement construction projects. East Bay Municipal Utility District (District) intends to award three (3) contracts for a period of 3-years to the Proposers who best meet the District's requirements. One contract will be for providing CM and inspection services for the ongoing \$240M Upper San Leandro Water Treatment Improvement (USLWTP) and Sbrante Water Treatment Plant (SOWTP) rehabilitation project located in Oakland and El Sbrante California. The other two contract(s) will provide as-needed CM and inspection services for a variety of District projects throughout the District's service area and upcountry facilities.

Proposers shall submit one proposal document and can propose services for both the USL/SOWTP and the on-call projects, but Proposers will only be awarded one of the three contracts.

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

### **B. PROPOSER QUALIFICATIONS**

#### **1. Proposer Minimum Qualifications**

- a. Proposer, Proposer's principal, or Proposer's staff shall have been regularly engaged in the business of providing Construction Management Services on large, multi-million-dollar public works water infrastructure projects for at least seven (7) years.
- b. Proposer shall possess all permits, licenses, and professional credentials necessary to perform services as specified under this RFP.

### **C. SPECIFIC REQUIREMENTS**

1. EBMUD is issuing this RFP for the purpose of retaining the services of three (3) qualified Proposers to provide construction management (CM) and inspection services including, but not limited to, construction administration and change management; construction inspection including electrical inspection; project controls; environmental compliance monitoring; supplier quality surveillance (SQS); Quality Assurance, special laboratory testing; testing, startup, and commissioning assistance; surveying; construction safety inspection; and technical data entry and document control including engineering archives.
  - a. The selected Proposer for the USL/SOWTP project will provide CM and inspection services to support an ongoing \$240M Water Treatment Plant rehabilitation project in Oakland, California. The selected team will be part of a blended team working alongside an existing EBMUD on-site team assigned to this project for the past two years. The

EBMUD PM and other staff members will take the lead and the consultant will augment this on-site presence. This work includes the following type of construction work at an active water treatment plant: new steel and concrete tanks, steel tank rehabilitation; pumping plant mechanical and electrical modifications; secant pile shoring system and construction of new concrete chlorine contact basin; new power building and substations, and associated electrical ductwork; new concrete gravity thickener; new water distribution pipelines; clearwell roof replacement with an aluminum roof, and other upgrades; building renovation and construction; and chemical system safety improvements (this chemical safety work will also be performed at the District's Sobrante Water Treatment Plant located in El Sobrante).

For the USL/SOWTP project, one (1) agreement will be awarded for a not-to-exceed amount of up to \$6 million, and a term not to exceed three (3) years each

- b. The selected Proposers for the as-needed contracts will provide on-call CM and inspection services to support the following types of projects: Water Treatment Plant upgrades; raw water aqueduct, reservoir, and pumping plant modifications; water distribution system reservoir and pumping plant rehabilitation & replacement; water distribution pipeline replacement; sanitary sewer gravity pipeline, force main, and lift stations; cathodic protection system upgrades; and occupied building renovation and construction. Work locations are within the District's service area, as well as the upcountry facilities extending to Amador and Calaveras Counties.

For the on-call CM and inspection services, up to two (2) agreements will be awarded for a not-to-exceed amount of up to \$1 to \$4 million each, and a term not to exceed three (3) years each.

The need for on-call CM services will fluctuate according to the work being performed under the various construction projects. Work shifts and schedules will vary according to workload and assignments. EBMUD does not guarantee the amount of labor required.

2. Selected Proposers may also be called upon to provide other CM-related services during the term of the Professional Services Agreement ("Agreement").
3. EBMUD will allocate work by issuing Task Orders to the selected Proposers. The scope of work and schedule will be determined by EBMUD when CM services are needed. Upon agreement with the Proposer on the scope of work, budget, and schedule for a particular task, a task order will be issued with a task order start date (also known as a Notice to Proceed (NTP) date) and a task order end date.
4. Description of Roles and Responsibilities

**The Consultant will provide fully qualified and highly experienced CM and Inspection personnel (listed below) to manage and inspect the construction aspects of projects. For the USL/SOWTP project, proposers should include each of the positions described below on their proposed team for this specific project. For the on-call services, each of these positions may be required for on-call purposes.**

The general roles and responsibilities of the potential CM and inspection positions are described below. EBMUD reserves the right to add or delete these positions and amend the descriptions of the roles and responsibilities to suit the needs of the various construction projects for which the as-needed services are being provided. EBMUD will discuss the changes, if any, with the selected Proposers. The roles and responsibilities of the specific CM and inspection positions will be stipulated in each task order. The responsibilities for each position will be aligned with the following descriptions as well as with the responsibilities included in the EBMUD Construction Division Project Procedures Manual.

- a. Construction Manager (CM) - Manages the project construction contracts as the “Engineer” as defined in the EBMUD Construction Contract Documents. The CM is the administrator of the construction contract; implements quality plans to assure all construction work is completed in conformance to the Contract Documents; implements environmental compliance requirements and procedures; manages schedules, costs, and change orders; assists with Public Outreach efforts; and maintains all construction documentation and records. Serves as one of the primary points of contact between the construction contractor, EBMUD, and external stakeholders. Ensures conformance to established policies and procedures for the management of the project. Interfaces with the Engineer of Record (EOR) for design support during construction and reviews technical submittals, Requests for Information (RFIs), and change orders. Participates in startup and testing activities, final inspections, and contract closeout activities. For the USL/SOB WTP project the CM will augment existing District CM staff. Reports to EBMUD’s Project Manager.
- b. Office/Field Engineer (OFE) – Assists the PM/RE/CM in the administration of the CM process. The OFE manages the document control processes through Kahua, the existing Construction Management Information System, as well as the Application for Payment process. The OFE schedules and documents project meetings, and coordinates progress and safety reporting. Reports to EBMUD's Project Manager.
- c. Quality Assurance Officer (QAO) – The Quality Assurance Officer (QAO) is the primary driver of the District’s QA process is its Quality Assurance Officer. The QAO manages the District’s construction quality assurance program for the project in accordance with the three-phase US Army Corps of Engineers CQM/QC guidelines and ensures that construction of all items is in accordance with the approved construction documents and consistent with design assumptions. The QAO reviews and approves the Contractor quality control packages for each definable feature of work; attends as the District’s primary representative at the Contractor’s QC preparatory, initial, and follow-up phase meetings; reviews the daily quality assurance reports to ensure that they are complete and accurate; uses professional judgement to recommend the quantity and location of random QA testing samples to be taken for all work elements requiring QC testing based on the CQC program performance; coordinates confirmatory material / shop / factory testing with both Plant Inspection and the Design Engineers; schedules Specialty Inspection based on the construction schedule; and recommends issuance of Deficiency

Notices for non-conformances / deficiency items and then follows up with the Contractor's Quality Control Manager to ensure that they are resolved in a timely fashion. Reports to EBMUD's Project Manager.

- d. Project Controls Engineer (PCE) - The Project Controls Engineer (PCE) develops and implements processes and tools to manage the project cost, schedule, and risk. The PCE oversees project change management and evaluates contractor requests for change based on contractor presented entitlement, causation, quantum, and contractual notice compliance. Additionally, the PCE mitigates ongoing & anticipated District risks by recommending issuance of key correspondence and identifying appropriate or preferred issue resolution outcomes based on project circumstances. Working with the Scheduler, the PCE monitors schedule status and jointly evaluates time impact analyses. The PCE also provides recommendations to the Project Manager to minimize cost and schedule risks. Reports to EBMUD's Project Manager.
- e. Construction Inspector (CI)– Oversees construction contractor Quality Control (QC) and performs Quality Assurance (QA) inspection for the following disciplines, including but not limited to: civil, structural, architectural, mechanical, electrical, instrumentation & control (I&C), geotechnical, welding, coating, corrosion, and hazardous materials. Note: Construction Inspectors will be required to provide a current certificate of the California/Occupational Safety and Health Administration (Cal/OSHA) 10-Hour Safety Training prior to task order NTP. For the USL/SOB WTP project the CI will augment existing District CM staff. Reports to EBMUD's Project Manager.
- f. Construction Scheduler – Reviews Monthly Schedule Updates and narrative reports for compliance with specification requirements, track changes made to the schedule by running compression reports between schedules, identify changes to the critical path and activities logics, actual production vs planned, etc., and provides recommendation for schedule acceptance or required modifications. The Scheduler also reviews Contractor assertions of Owner-caused delays and provides draft responses and/or rebuttals based on schedule analysis and field documentation. The Scheduler also reviews Contactor Time Impact Analyses for reasonableness and validity and provides recommendations for their acceptance or modifications.
- g. Estimator – Provides cost estimating support for the review and assessment of change requests, value engineering proposals, and claims analysis.
- h. Construction Safety Manager – Conducts reviews of the construction contractor and CM consultant's compliance with contract terms relating to safety, as well as compliance with Cal/OSHA requirements. Assures compliance with the construction contractor's safety plans and work plans. Assists in the investigation of safety incidents and maintains records of safety compliance and effectiveness. Reports to EBMUD's Workplace Health and Safety representative.

## 5. Description of Services

For the USL/SOBWTP contract, staff report to the WTPs located in Oakland and El Sobrante. For the on-call contract, CM and inspection services to support EBMUD construction projects may be required in any of the following EBMUD work areas: Alameda County, Contra Costa County, San Joaquin County, Calaveras County and Amador County. CM services outside of these work areas may be authorized by the EBMUD Engineering Manager of Construction or designee.

The primary role of the selected Proposers will be to provide CM-related services as described below:

### a. Construction Inspection

- i. Provide inspection services to assure compliance with the quality and functional requirements of the specifications including, but not limited to, general, warranty, and special inspections.
- ii. Conduct periodic surveillance and inspection of the work, monitor the construction contractor's quality processes, and coordinate field sampling and testing for verification of quality results as needed.
- iii. Prepare daily inspection reports and other quality records, including deficiency notices, using the District's online Construction Management Information System - Kahua.
- iv. Assist in planning for and coordinating all QA inspection activities, compiling all daily inspection records, reviewing field construction-related submittals, inspecting all material and equipment arriving on site, monitoring resolution of all quality issues, and leading the Ready for Service and Final Completion inspections. Anticipated QA inspection needs may include, but are not limited to, the following disciplines: civil/structural/architectural, mechanical, electrical/I&C, geotechnical, welding, coating/corrosion, and hazardous materials.
- v. Provide inspection services for electrical power and control systems and equipment, medium and low-voltage switchgear, motor control, duct banks, LED lighting, solar panels, instrumentation, control, and SCADA systems.

### b. Construction Management

- i. Provide overall management of the project or over the assigned areas of responsibility.
- ii. Provide CM services including, but not limited to, the management of construction contracts.
- iii. Provide contract administration activities, and CM support staff. Coordinate with Design and O&M staff to resolve construction issues. Manage construction



contractors to ensure compliance with the District's plans and specifications. Ensure that projects are completed safely, within budget, within the specified contract duration, and in accordance with applicable laws and regulations.

c. Quality Assurance

- i. Develops, plans, executes, and manages the District's construction quality assurance program for the project. The quality assurance program is a system of procedures that define planned and systematic activities executed in the course of a job to fulfill the project's quality requirements.
- ii. Manages quality assurance material testing, reviews technical submittals for conformance with the contract documents, reads and interprets technical specifications, recommends to District's Project Manager issuance of deficiency notices for non-conformances, and monitors the construction contractor's execution of their quality control plan.
- iii. Attends as the District's primary representative the Contractor's QC preparatory, initial, and follow-up phase meetings for each definable feature of work.
- iv. Reviews and approves contractor quality control, Construction Quality Assurance Inspectors, and District quality assurance daily field reports.

d. Project Controls

- i. Develop processes and tools for the team to properly manage project cost, schedule, and risk.
- ii. Monitor project cost & schedule status and documenting issue progression.
- iii. Review and evaluate contractor requests for change.
- iv. Work closely with the Office Engineer, Field Engineers, and Construction Managers to reviews District responses to submittals and RFIs for completeness, compliance with the specifications, and potential cost & schedule impacts.
- v. Draft and recommend Change Order Requests and dispute documentation responses for the Project Manager and assists with change order negotiation and preparation.

e. Office Engineering

- i. Provides document control, records management support and project-specific administrative support to project CM field offices and EBMUD Construction Division. Services may include, assists the PM/RE/CM in the administration of the CM process managing the submittal and RFI process through Kahua, the existing Construction Management Information System, resolve and process monthly progress payments.
- ii. Provides support and perform the liason function between construction and design, prepare progress meeting agenda and prepare meeting minutes,



coordinates turnover of Operations & Maintenance manuals, spare parts, and warranties to EBMUD Operations.

- iii. Troubleshoots and resolves field issues and performs construction inspection tasks as necessary. Reports to EBMUD's Project Manager.

f. Environmental Review and Monitoring

- i. Provide biological, arboricultural, and archaeological consulting to support compliance with environmental permit conditions, and local, county, state, and federal regulations in the construction industry. Provide pre-construction biological habitat assessment, and monitoring as needed during construction. Provide consultation on tree trimming, root disturbance, and tree removal. Evaluate the archeological or cultural significance of construction work areas, and discoveries made during construction.

g. Materials Testing

- i. Provide management and coordination of special laboratory testing on select, suitable samples to assure compliance with quality and functional requirements of the specifications. Materials testing services must be located within 50 miles of any specified EBMUD work areas, which include the following counties: Alameda County, Contra Costa County, Solano County, San Joaquin County, Calaveras County and Amador County. Proposers may propose more than one firm to provide materials testing services to the various work areas.

h. Construction Safety

- i. Provide construction safety inspection and oversight including review of construction contractor's and CM's project safety documents for compliance with contract terms relating to safety.
- ii. Assist in the investigation and reporting of safety incidents and maintain records of safety compliance and effectiveness.
- iii. Organize safety trainings for project CM staff as well as develop and implement, as necessary, safety approaches and procedures for various construction programs or projects.

6. Proposer / Subconsultant Minimum Qualifications (MQs)

Proposer must meet the following MQs for a Proposer to be eligible to submit a Proposal in response to the RFP. Proposals must clearly demonstrate compliance with the specified MQs. EBMUD may reject Proposals that do not clearly demonstrate Proposer(s)'s compliance with the MQs without further consideration. EBMUD reserves the right to request clarification from Proposers prior to rejecting a Proposal for failure to demonstrate compliance.

a. Prime Proposer Qualifications

To qualify as a Prime Proposer for this RFP, a Proposer must demonstrate relevant expertise to successfully perform its roles and responsibilities in the scope of services described in this RFP.

A Prime Proposer that intends to be listed as a subconsultant on another competing proposal must fully disclose this information to the impacted parties.

To qualify as a Prime Proposer for this RFP, a Proposer must possess the following MQs:

- i. A minimum of seven (7) years in business providing CM and inspection services for public works/utility infrastructure construction projects.
- ii. Clearly demonstrated experience in a lead role providing CM and inspection services within the last 10 years for at least one (1) water utility project valued at \$10 million or more.
- iii. Demonstrated ability to provide adequate staffing of professional and technical personnel to perform the scope of services in the manner required by EBMUD.
- iv. Demonstrated experience in managing multiple projects, tasks, and associated staff to ensure the provision of quality services.

b. Subconsultant Qualifications

To qualify as a Subconsultant that will provide technical services described in this RFP, the Subconsultant(s) must possess the following:

- i. A minimum of five (5) years of professional experience in the technical/business field(s) required under the scope of services for which the Subconsultant is being proposed (e.g., resident engineering, change management, construction inspection, project controls). If the firm has less than five (5) years in business, the firm's Principal, meaning an owner, partner, or principal officer of the firm who is responsible for making significant administrative and business decisions on behalf of the firm, shall have at least 15 years of experience in the technical/business field(s) required under the scope of services for which the Subconsultant is being proposed.
- ii. Non-technical Subconsultants are not required to meet the above Subconsultant qualifications.

7. Key Team Member Minimum Qualifications

The following positions are considered Key Team Member positions. EBMUD reserves the right to verify information regarding the employment of proposed team members.

Proposers are required to indicate the specific CM position for each Team Member and to demonstrate conformance to the minimum qualifications described below as related to each position. Proposers must submit only **ONE** (1) candidate for each position listed in this section with the exception of the Construction Inspector. For the Construction Inspector,

Proposers must propose three (3) candidates for civil/structural/architectural, one (1) candidate for Mechanical, one (1) candidate for Welding, one (1) candidate for Coating/Corrosion, and one (1) candidate for electrical/I&C; seven (7) Construction Inspector candidates total for evaluation purposes.

a. Construction Manager:

- i. At least 10 years of experience providing CM services for water utility infrastructure construction projects.
- ii. Demonstrated experience providing CM services within the last 15 years for at least two (2) verifiable water utility infrastructure construction projects each valued at \$10 million or more.
- iii. Demonstrated experience providing contract change management services and contract administration within the last 15 years for at least two (2) verifiable water utility infrastructure construction projects each valued at \$10 million or more.
- iv. Demonstrated knowledge of construction contract requirements and contract change processes including claims analyses and negotiations, change order cost estimates, and TIA.
- v. A baccalaureate degree in Civil, Mechanical, or Electrical Engineering or in a relevant engineering discipline from an accredited institution.
- vi. At least three (3) years of recent experience using CM software systems.
- vii. Registration as a Professional Engineer in the State of California is required.

b. Office/Field Engineer

- i. At least five (5) years of experience in CM, office engineering, field engineering, and/or design of water infrastructure construction projects.
- ii. Demonstrated experience providing office engineering services within the last 10 years for at least one (1) verifiable water infrastructure construction project valued at \$10 million or more.
- iii. Demonstrated experience in understanding and interpreting plans and specifications and in construction contract administration of submittals and RFIs.
- iv. A baccalaureate degree in Civil, Mechanical, or Electrical Engineering or in a relevant engineering discipline from an accredited institution.
- v. At least three (3) years of recent experience using CM software systems.

c. Project Controls

- i. At least 5 years of recent experience in change, schedule, and risk management for utility infrastructure construction projects.

- ii. Demonstrated experience providing change, schedule, and risk management services within the last 15 years for at least two (2) verifiable water or wastewater utility construction projects each valued at \$10 million or more.
  - iii. Demonstrated knowledge of construction contract requirements and contract change processes including dispute/claims analyses and negotiations, change order cost estimates, alternate dispute resolution, and TIA analysis.
  - iv. A baccalaureate degree in Engineering, Construction Management, Business Administration, or relevant discipline from an accredited institution.
  - v. At least three (3) years of recent experience using CM software systems.
- d. Quality Assurance Officer
- i. Demonstrated experience providing Construction Management services within the last 15 years for at least two (2) verifiable water utility infrastructure construction projects, each valued at \$20 million or more.
  - ii. Demonstrated experience within the last five (5) years providing Quality Assurance / Quality Control services in accordance with the three-phase US Army Corps of Engineers CQM/QC guidelines for at least one (1) verifiable utility infrastructure construction project valued at \$20 million or more.
  - iii. Current certification of completion of Construction Quality Management for Contractors offered by the United States Army Corps of Engineers and Navy Facilities Engineering Command
  - iv. A baccalaureate degree in Civil, Mechanical, or Electrical Engineering or in a relevant engineering discipline from an accredited institution.
  - v. At least three (3) years of recent experience using CM software systems.
- e. Construction Inspector:
- i. At least five (5) years of experience in construction inspection of water utility infrastructure construction projects, of which two (2) years are in construction inspection of wastewater or water treatment facilities, OR at least three (3) years of recent, relevant field inspection experience on projects similar to wastewater or water treatment facilities.
  - ii. Demonstrated knowledge of quality control / quality assurance construction inspection means and methods; knowledge of current construction inspection techniques; and knowledge of safe working practices and regulations in relation to different types and phases of construction.
  - iii. Cal/OSHA 10-hour safety training certification for industrial construction (confined spaces, lockout/tagout, etc.) prior to task order NTP.
  - iv. At least three (3) years of experience using CM software systems.
  - v. Certification in the appropriate category needed to perform construction inspection according to the best industry practice, specifically:

- Civil/Structural/Architectural – nationally and construction industry recognized technical certification.
- Mechanical – nationally and construction industry recognized technical certification.
- Electrical/I&C – International Code Council Commercial Electrical Certification.
- Geotechnical – nationally and construction industry recognized technical certification.
- Welding – American Welding Society (AWS) Certified Welding Inspector, Nondestructive Testing Level II or higher, and/or other nationally and construction industry recognized technical certification.
- Coating/Corrosion – National Association of Corrosion Engineers (NACE) Level III certification.
- Hazardous Materials – nationally and construction industry recognized technical certification.

#### 8. Non-Key Team Members

The following positions are considered Non-Key Team Member positions. The Selection Panel will review Non-Key Team Member positions for compliance with the requirements outlined below as part of the scoring process for the written evaluation.

Proposers must also submit only **ONE** (1) candidate for each position listed in this section for evaluation purposes.

##### a. Construction Safety Manager:

- i. At least 5 years of experience in safety management for water utility infrastructure construction projects or programs.
- ii. Demonstrated experience providing safety management services within the last 15 years for at least two (2) verifiable water utility infrastructure construction projects each valued at \$10 million or more, with at least one (1) project located in California.
- iii. Demonstrated experience with current Occupational Safety and Health Administration (OSHA) and Cal/OSHA rules and regulations.
  - i. Possession of requisite safety supervisory experience, training, and certifications consistent with the requirements of the utility infrastructure construction industry.

##### b. Estimator:

- i. At least 10 years of experience in cost estimating for water utility infrastructure construction projects.

- ii. Demonstrated experience providing cost estimating services within the last 15 years for at least two (2) verifiable water utility infrastructure construction projects each valued at \$10 million or more.
  - iii. Ability to prepare cost estimates in CSI format, based on quantity takeoffs and unit costs.
  - iv. A baccalaureate degree in Engineering, Construction Management, Business Administration, or relevant discipline from an accredited institution.
  - v. Certification with the American Society of Professional Estimators or the American Association of Cost Engineers International, or equivalent, is desirable.
- c. Construction Scheduler:
- i. At least 10 years of experience in scheduling for water utility infrastructure construction projects.
  - ii. Demonstrated experience providing construction scheduling services within the last 15 years for at least two (2) verifiable water utility infrastructure construction projects each valued at \$10 million or more.
  - iii. A baccalaureate degree in Engineering, Construction Management, Business Administration, or relevant discipline from an accredited institution.
  - iv. Full competency with the latest version of Primavera Project Planner; certification as a Primavera P6 Professional is desirable.

## II. CALENDAR OF EVENTS

EVENT	DATE/LOCATION
RFP Issued	April 22, 2025
Addendum (if necessary)	May 19, 2025
Response Due	June 2, 2025 by 4:00 p.m.
Anticipated Contract Start Date	September 1, 2025

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

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

### **III. DISTRICT PROCEDURES, TERMS, AND CONDITIONS**

#### **A. RFP ACCEPTANCE AND AWARD**

1. RFP responses will be evaluated by a 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(s) that, 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 level of effort.
3. The District reserves the right to award to a single or to multiple proposers, 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 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 level of effort, will be deemed reflective of an inherent lack of technical competence or indicative of a failure to comprehend the complexity and risk of the District’s requirements as set forth in this RFP.

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



The Evaluation Criteria are as follows:

	Evaluation Criteria	Points
<b>A.</b>	<b>Proposer Qualifications</b>	<b>20</b>
<b>B.</b>	<b>Key Team Member Qualifications</b>	<b>35</b>
<b>C.</b>	<b>Non-Key Team Member Qualifications</b>	<b>15</b>
<b>D.</b>	<b>Oral Presentation and Interview</b>	<b>20</b>
<b>E.</b>	<b>Contract Equity Program (CEP):</b> As described in the guidelines contained in Exhibit A-Contract Equity Program, and PROPOSER Information and Acceptance. Points will be given for local businesses, small businesses, and diversity of subconsultants/team members for up to a total of 10 points.	<b>10</b>
	<b>Total Points</b>	<b>100</b>

Proposers scoring 50 points or higher out of 70 possible points for the sum of Evaluation Criteria A through C will be invited to attend an Oral Presentation and Interview. Proposers scoring less than 50 points out of 70 possible points for the sum of Evaluation Criteria A through D will not be invited to attend an Oral Presentation and Interview, and will not be considered further for award of an agreement related to this RFP.

The Selection Committee will be instructed to attribute more points to Team Members with demonstrated attributes identified as “desirable” during the Written Proposal Evaluation.

The assigned CEP Administrator will assess the proposal eligibility for SBE or DVBE preference points and assign a rating bonus to the written proposal score, if applicable.

EBMUD will tabulate written proposal, oral presentation, and OPS scores and then rank Proposers, starting with the Proposer receiving the highest total score, then continuing with the Proposer receiving the second highest total score, and so on. The three (3) Proposers with the highest total scores will be identified as the highest-ranked Proposers eligible to proceed with the award of the Agreements.

## **C. PRICING**

1. Prices quoted shall be firm for the first 12-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.

5. Prevailing Wages:

All Consultants proposing on a public works project and all Subconsultants of any tier shall be registered with the State Department of Industrial Relations pursuant to Section 1725.5 of the Labor Code.

The Consultant shall post a copy of the general prevailing rate of per diem wages at the jobsite pursuant to Section 1773.2 of the Labor Code of the State of California.

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

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

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

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

#### D. NOTICE OF INTENT TO AWARD AND PROTESTS

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

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

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

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

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

Protests must be mailed, hand delivered, or emailed to the Manager of Purchasing, Mailstop 102, East Bay Municipal Utility District, 1010 Franklin St., Oakland, CA 94607 or P.O. Box 24055, Oakland, California 94623. Facsimile and electronic mail protests must be followed by a mailed or hand delivered identical copy of the protest and must arrive within the seven workday time limit. Any proposal protest filed with any other District office shall be forwarded immediately to the Manager of Purchasing.

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

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

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

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

**E. INVOICING**

1. Following the Districts acceptance of 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 Consultant 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 the Consultant in an amount not to exceed the negotiated amount(s) which will be referenced in the agreement signed by both parties.

**IV. RFP RESPONSE SUBMITTAL INSTRUCTIONS AND INFORMATION**

**A. DISTRICT CONTACTS**

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

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

**B. SUBMITTAL OF RFP RESPONSE**

1. Late responses will not be accepted.
2. 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 the email shown below. 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) 774-4266 to check receipt of the proposal.

3. RFP responses are to be e-mailed to the following address:

Javier Prospero, Senior Civil Engineer  
javier.prospero@ebmud.com  
(510) 774-4266

**Proposer's name and the RFP number and title must appear in the subject line of the e-mail.**

4. Proposers are to submit one (1) electronic copy in PDF format of the RFP response (Exhibit A – RFP Response Packet, including Contract Equity Program forms and all additional documentation stated in the “Required Documentation and Submittals” section of Exhibit A). The electronic copy must also include the Fee Schedule spreadsheet showing calculation of the Effective Overhead & Profit Rate (EOPR) in Excel format. Selected proposer(s) must submit one (1) hard copy including original ink signatures to the District *upon receipt of the Notice of Intent to Award*. No contract will be awarded until the hard copy with original ink signatures is received by the District.
5. All costs required for the preparation and submission of an RFP response shall be borne by the Proposer.
6. 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.
7. 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.

8. 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.
9. It is understood that the District reserves the right to reject any or all RFP responses.

C. RESPONSE FORMAT

1. **Proposers shall not modify any part of Exhibits A, B, C, D, or E, 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.
3. The proposal must include the following:
  - a. Contact Information and Commitments
    - Provide contact information, identifying the Prime Proposer.
    - Proposer must agree to the following commitments:
      - Proposer has the ability and qualifications to perform the work described in this RFP.
      - Proposer has read and agrees to fully comply with the terms and conditions of the Professional Services Agreement (see Exhibit C).
      - Proposer agrees to fully comply with all applicable laws.
  - b. Executive Summary
    - Includes a brief overview of the proposal's principal elements.
    - Demonstrates an understanding of the project objectives.
    - Describes the approach for carrying out the scope of services.
  - c. Proposer Qualifications
    - Proposer must provide a description and background summary of the Prime Proposer firm and Subconsultants. Summary shall include corporate qualifications, commitment, strength, and technical capabilities to fulfill all services specified and required to successfully accomplish the work.

- Proposer must clearly demonstrate that the Prime Proposer and all Subconsultants meet all the minimum qualifications requirements outlined in Section 3 of the RFP.

d. Team Member Qualifications

- Proposer must identify the staff who will serve as the Team Members as specified in Section I of the RFP and must provide their roles/responsibilities and company affiliations. Proposer must also provide Team Members' background and experience in order to demonstrate a strong ability to successfully perform the work. Proposer must clearly demonstrate that all Team Members meet all the requirements as outlined in Section I. Proposer must include résumés (two-page limit) for each Team Member. EBMUD will evaluate Key Team Members' MQs for responsiveness. The Selection Panel will evaluate all Team Members (Key and Non-Key) for their ability and experience to successfully fulfill their Project roles and complete the scope of services.
- Please note: Proposer must provide evidence of relevant project experience as specified within Section I of the RFP. This evidence of required project experience may be listed within the Team Members' résumés or within the Team Members qualifications' section in the Proposal.

e. Team Organizational Chart

- Attach an Organizational Chart that illustrates the team structure and provides the name, title/role, and firm name for each team member.
- For the USL/SOWTP proposal, show the individuals that are being proposed for working on this project.

f. Reference Projects

The Prime must provide a description of the two (2) most recent, relevant construction projects previously managed by the Prime Proposer. The reference projects must be of the type and scope as set forth in Section 3. For the two (2) projects, the following must be validated:

- Clearly demonstrated experience in a lead role providing CM services within the last 10 years for at least one (1) water utility project valued at \$10 million or more.
- Proposer may not selectively pick reference projects. Rather, Proposer must submit project descriptions for the most recent projects that are relevant to the services requested in this RFP. EBMUD may find a Proposer non-responsive and/or reduce the points awarded depending on the



degree of deficiency for failure to submit the most recent, relevant projects.

The project descriptions shall include:

- Project name.
- Project scope summary.
- Dates when the project was performed.
- Project costs (Prime CM consulting fee and total project construction cost).
- Proposer's role and responsibilities in the project.
- Proposer's performance on delivering the project on schedule and on budget.
- Proposer staff members who worked on the project.
- Client name, reference, and contact information.

EBMUD will not be responsible for non-responsive references or references with incorrect contact information. A reference is non-responsive if the Proposer's information cannot be verified by a reference within seven (7) calendar days of first contact attempt by EBMUD staff. EBMUD may, at its discretion, contact references to verify project work. If EBMUD chooses to exercise that discretion, it will apply the same reference checking criteria to all Proposers.

g. Work Approach

- Proposer must describe the overall work approach that its team proposes to use to successfully provide CM services for EBMUD construction projects. Specifically address the following:
  - Overall approach to meeting goals and objectives of this RFP.
  - Approach to managing communication and coordination with EBMUD Task Order Managers, including effective oversight of all task orders and associated task order work.
  - Approach to providing CM and inspection services for the USLWTP project.
  - Approach to providing as-needed CM and inspection services and managing the allocation of staffing resources to deliver the work in a responsive and cost-effective manner.
  - Top three (3) issues and constraints that could be anticipated during the execution of the services to be provided in this Agreement, and recommended approach(es) to resolving these issues and constraints, based on previous experience with similar as-needed services agreements.

h. Overhead and Profit Schedule (OPS)

- Compensation under this contract will be provided as: 1) labor related costs by hourly billing rates for hours worked, and 2) separately billed direct reimbursable expenses, also known as Other Direct Costs (ODCs).
- Proposer must use the OPS Template, provided as an Excel file in Exhibit E, to prepare its OPS. The OPS must include the base hourly rate and each firm's overhead and profit rate (OPR, or "multiplier") for each staff member for the Prime Proposer and all Subconsultants expected to perform as-needed CM services. Staff members include all Key and Non-Key Team Members submitted for proposal evaluation as well as any additional, qualified staff members who will be considered as part of a Proposer's "deep bench" of CM professionals. Proposer(s) may list only one overhead and profit rate for each firm. The base hourly rate is the employee's earned income hourly rate, which shall not include health benefits, retirement benefits, profit sharing, sick leave, or vacation.
- Proposer shall note that EBMUD will confirm whether the OPS formulas used to calculate the billing rates – base hourly rates multiplied by the firms' OPRs – have been altered to comply with the maximum billing rates. **If any Excel formula included in the OPS is altered, then EBMUD reserves the right to reject any proposal as non-responsive.**

i. Applicable Rates

- For fair comparison purposes, all billing rates must reflect 2025 billing rates. The selected Proposers will only be allowed to escalate their 2025 billing rates based on the annual percentage change of the Consumer Price Index for the San Francisco Bay Area for Urban Wage Earners and Clerical Workers. Billing rates will be fixed until the 1-year anniversary of the executed Agreements and then may be adjusted annually thereafter.
- Based on the information provided in the OPS, an Effective Overhead and Profit Rate (EOPR) will be determined by summing the contributions to the EOPR. These contributions are calculated by multiplying the firms' OPRs by the firms' estimated percentage of work.
- Any Proposer that does not completely fill out the OPS provided in this RFP will not receive any points for the OPS portion of the proposal evaluation. Furthermore, it is within sole discretion of EBMUD to reject any proposal that does not comply with the OPS requirements.
- **Proposer(s) must include all costs to manage and administer the services under the Agreement in each firm's OPR, or "multiplier."** Only individuals who are assigned to the project in the proposal or who have been approved by the EBMUD Engineering Manager of Construction to be added to the Agreement, and are performing tasks directly related to the

Agreement, will be allowed to charge their time on the approved task orders.

j. Individual Contractor

An Individual Contractor for purposes of the OPS is an individual staff team member proposed by Proposer who is compensated by Proposer under an hourly contract pay rate instead of an hourly base payroll labor rate. An Individual Contractor must be listed as a separate line item in the OPS. The Individual Contractor's name, entity, and hourly pay rate shall be listed, and the hourly pay rate extended to a billing rate with a 1.00 Overhead and Profit Rate pass-through. The Individual Contractor's hourly pay rate must be verifiable by an executed written contract with the Proposer. Markup on an Individual Contractor is limited to 5% of the Individual Contractor's proposed billed cost. The Proposer's markup for an Individual Contractor must be captured in the individual task order developed to provide CM services.

Provision of Individual Contractors for proposed services under the Agreement shall not exceed 3% of the total Agreement amount. If Proposer's Individual Contractor is later replaced or substituted after the parties execute the Contract, the billing rate of any new Individual Contractor must not exceed the billing rate proposed in the OPS for the position. If the Individual Contractor is replaced or substituted with a Prime or Subconsultant employee at an hourly payroll rate, the firm Overhead and Profit Rate applied to the replacement individual's hourly payroll rate must not exceed the Proposal EOPR.

k. Rates and Markups

The Proposer's billing rates and EOPR provided in the OPS will not be negotiable during the Agreement award process and the duration of the Agreement. The EOPR will apply to the billing rate of all subconsultant firms not listed in the OPS. If a new subconsultant firm is added during the duration of the Agreement, the new individual firm Overhead and Profit Rate can be no more than the Proposal Effective Overhead and Profit Rate. The EOPR will also apply to all amendments to the Agreement.

EBMUD will require Proposers to provide certified payroll records documenting the actual salaries of all individuals who will be added to the Project (i.e., individuals not listed in the OPS). The Proposer should note that EBMUD will only approve project staff substitutions when that change in personnel is requested by EBMUD and/or beyond the control of the Proposer. EBMUD requires Proposers to provide individuals listed in the OPS, and for whom résumés and qualifications have been submitted as part of the proposal, to perform as-needed CM services.

The Proposer shall note that the subconsultant administration markup is limited to five percent (5%) *of the subconsultants' actual labor costs*. The Proposer shall include the 5% markup on Subconsultant labor costs as a separate line item in each individual task order for which the Subconsultant is performing work. The Agreement will prohibit markups on ODCs or materials for either the Proposer or its Subconsultants.

Hourly billing rates shall be the actual hourly base salary rate of each employee utilized for the work multiplied by the firm's proposed overhead rate (including salary burden and fringe benefits) and proposed profit rate. Each firm's proposed OPR, or "multiplier," shall apply to all proposed staff and substituted, new, or added staff for the duration of the contract and shall include all miscellaneous and incidental costs of work other than those as specifically defined below as direct reimbursable expenses.

I. Other Direct Costs

Direct reimbursable expenses, also known as ODCs, include actual direct costs (with no markup) of expenses directly incurred in performing the work. **All ODCs are subject to pre-approval in writing by the EBMUD Engineering Manager of Construction.**

The following items will be eligible for reimbursement as ODCs:

- Task-specific out-of-town travel as requested by EBMUD ("out-of-town" shall mean outside the nine Bay Area counties: San Francisco, Alameda, Marin, Santa Clara, Sonoma, Contra Costa, Napa, San Mateo, and Solano; as well as San Joaquin, Amador, and Calaveras counties). Out-of-town travel must be non-routine.
- Rental vehicle: traveler must select the most economical contractor and type of vehicle available and acquire any commercial rate or government discount available when the vehicle is rented.
- Personal vehicle use: Consultant will be paid per mile as established by the United States Internal Revenue Service and only for that portion of travel that is outside the counties listed above and non-routine. Should the travel begin or end on a normal workday, the Consultant shall subtract commuting mileage from total mileage to calculate reimbursable mileage. The Consultant shall submit to EBMUD an approved mileage log and expense report with its monthly invoices.
- Project vehicle rental/lease cost, gasoline, tolls, and parking. The project vehicle must be requested and pre-authorized by EBMUD staff. EBMUD will only reimburse the business portion of the vehicle use. A vehicle mileage log and an expense report are required for consideration of reimbursement. Since auto insurance is already part of the contract, no additional insurance will be reimbursed. Commuting to Camanche or

Pardee from Consultant's temporary home is not eligible for reimbursement.

- Specialty printing ("specialty" as used herein shall mean large volume printing and color printing and requires prior written approval from EBMUD project staff, and documentation of the written approval from the EBMUD must be included with the invoice).
- Special services used solely for the benefit of designated projects and not performed by the Prime Consultant or by the Subconsultants, such as electrical testing, hazardous materials testing, laboratory testing, training, deliveries, drilling services, and telephone and network installations and maintenance. All such services must receive prior written approval from EBMUD project staff, and documentation of the written approval from EBMUD must be included with the invoice.
- Task-related permit fees.
- Task-specific, non-standard safety equipment and expedited courier services when requested by EBMUD staff.

Only costs or expenses listed above will be eligible for reimbursement; therefore Proposer(s) should include any other costs or expenses in the EOPR if compensation for those costs or expenses is sought. They include, but are not limited to, the following:

- All other travel expenses such as parking, bridge tolls, public transit, vehicle mileage within the nine Bay Area counties: San Francisco, Alameda, Marin, Santa Clara, Sonoma, Contra Costa, Napa, San Mateo, and Solano, as well as San Joaquin, Amador, and Calaveras counties, and travel from selected Proposer's home office to EBMUD facilities not pre-approved by EBMUD.
- Non-routine travel from Consultant's home office to EBMUD facilities or to Camanche or Pardee.
- Consultant staff relocation costs.
- Any labor charges or pass-throughs including, but not limited to, administrative and clerical staff time.
- Telephone calls and faxes originating in the firm's home office, standard computer use charges, computer hardware or software, communication devices, and electronic equipment.
- All meals, including refreshments and working lunches with EBMUD staff.
- Equipment to be used by EBMUD staff.
- Ergonomic office equipment.
- Standard Personal Protective Equipment including hard hats, safety boots, gloves, safety goggles/glasses, and reflective vests.

- Postage and courier services that are not requested by EBMUD staff.



# EXHIBIT A

## RFP RESPONSE PACKET

### RFP For – As-Needed Construction Management (CM) and Inspection Services

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

From: \_\_\_\_\_  
(Official Name of Proposer)

#### RFP RESPONSE PACKET GUIDELINES

- AS DESCRIBED IN SECTION IV- RFP RESPONSE SUBMITTAL INSTRUCTIONS AND INFORMATION, PROPOSERS ARE TO SUBMIT ONE (1) ELECTRONIC COPY IN PDF FORMAT CONTAINING THE FOLLOWING, IN THEIR ENTIRETY:
  - EXHIBIT A – RFP RESPONSE PACKET
    - INCLUDING ALL REQUIRED DOCUMENTATION AS DESCRIBED IN “EXHIBIT A- REQUIRED DOCUMENTATION AND SUBMITTALS”
  - EXHIBIT B – INSURANCE REQUIREMENTS
  - EXHIBIT C – CONSULTING AND PROFESSIONAL SERVICES AGREEMENT
  - EXHIBIT D - IRAN CONTRACTING ACT CERTIFICATION
  - EXHIBIT E - OVERHEAD AND PROFIT SCHEDULE
- PROPOSERS THAT DO NOT COMPLY WITH THE REQUIREMENTS, AND/OR SUBMIT AN INCOMPLETE RFP RESPONSE MAY BE SUBJECT TO DISQUALIFICATION AND THEIR RFP RESPONSE REJECTED IN WHOLE.
- IF PROPOSERS ARE MAKING ANY CLARIFICATIONS AND/OR AMENDMENTS, OR TAKING EXCEPTION TO ANY PART OF THIS RFP, THESE MUST BE SUBMITTED IN THE EXCEPTIONS, CLARIFICATIONS, AND AMENDMENTS SECTION OF THIS EXHIBIT A – RFP RESPONSE PACKET. THE DISTRICT, AT ITS SOLE DISCRETION, MAY ACCEPT AMENDMENTS/EXCEPTIONS, OR MAY DEEM THEM TO BE UNACCEPTABLE, THEREBY RENDERING THE RFP RESPONSE DISQUALIFIED.
- PROPOSERS SHALL NOT MODIFY DISTRICT LANGUAGE IN ANY PART OF THIS RFP OR ITS EXHIBITS, NOR SHALL THEY QUALIFY THEIR RFP RESPONSE BY INSERTING THEIR OWN LANGUAGE OR FALSE CLAIMS IN THEIR RESPONSE. ANY EXCEPTIONS AND CLARIFICATIONS MUST BE PLACED IN THE “EXCEPTIONS/ CLARIFICATIONS” PAGE, NOT BURIED IN THE PROPOSAL ITSELF.





**PROPOSER INFORMATION AND ACCEPTANCE**

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

Addendum #	Date

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

This documentation must be provided to the District prior to execution of an agreement by the District, and shall include an insurance certificate which meets the minimum insurance requirements, as stated in the RFP.

9. The undersigned acknowledges that RFP responses, in whole or in part, are NOT to be marked confidential or proprietary. The District may refuse to consider any RFP response or part thereof so marked. RFP responses submitted in response to this RFP may be subject to public disclosure. The District shall not be liable in any way for disclosure of any such records.
10. The undersigned Proposer hereby submits this RFP response and binds itself to the District. The RFP, subsequent Addenda, Proposers Response Packet, and any attachments, shall be used to form the basis of a Contract, which once executed shall take precedence.

11. The undersigned acknowledges **ONE** of the following (please check only one box)\*:

- ☐ Proposer is not an SBE nor a DVBE and is ineligible for any Proposal preference; **OR**
- ☐ Proposer is an SBE or DVBE as described in the Contract Equity Program (CEP) and Equal Employment Opportunity (EEO) Guidelines, and has completed the CEP and EEO forms at the hyperlink contained in the CEP and EEO section of this Exhibit A.

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

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

Street Address Line 1: \_\_\_\_\_

Street Address Line 2: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Webpage: \_\_\_\_\_

Type of Entity / Organizational Structure (check one):

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

Jurisdiction of Organization Structure: \_\_\_\_\_

Date of Organization Structure: \_\_\_\_\_

Federal Tax Identification Number: \_\_\_\_\_

Department of Industrial Relations (DIR) Registration Number: \_\_\_\_\_

Primary Contact Information:

Name / Title: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Street Address Line 1: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_

Name and Title of Signer (printed): \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_



## REQUIRED DOCUMENTATION AND SUBMITTALS

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

1. **Letter of Transmittal:** RFP response shall include a description of the Proposer’s capabilities and approach in providing its services to the District and provide a brief synopsis of the highlights of the RFP response and overall benefits to the District. This synopsis should not exceed three (3) pages in length and should be easily understood.
2. **Key Personnel:** RFP response shall include a complete list of all key personnel associated with the RFP. This list must include all key personnel who will provide services/training to District staff and all key personnel who will provide maintenance and support services. For each person on the list, the following information shall be included:
  - (a) The person’s relationship with the Proposer, including job title and years of employment with the Proposer.
  - (b) The role that the person will play in connection with the RFP.
  - (c) The person’s telephone number, fax number, and e-mail address.
  - (d) The person’s educational background.
  - (e) The person’s relevant experience, certifications, and/or merits.
3. **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 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.
4. **Sustainability Statement:** Consultants 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 business practices of your firm.
5. **References:**
  - (a) Proposers must use the templates in the “References” section of this Exhibit A – RFP Response Packet to provide references.

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

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

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

7. **Contract Equity Program:**

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



## REFERENCES

### RFP For - Construction Management (CM) and Inspection Services

**Proposer Name:** \_\_\_\_\_

**Proposer must provide a minimum of 5 references.**

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

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

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

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

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



EXCEPTIONS, CLARIFICATIONS, AMENDMENTS

RFP For – Construction Management (CM) and Inspection Services

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 Consultants and their subconsultants 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.

**Consultant and its subconsultants 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 consultants and subconsultants 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 Consultants 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 also be downloaded from the District website at the following link:  
<http://ebmud.com/business-center/contract-equity-program/>

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



## **EXHIBIT B**

# **INSURANCE REQUIREMENTS**

PROPOSER shall take out and maintain during the life of the Agreement all insurance required and PROPOSER shall not commence work until such insurance has been approved by DISTRICT. The proof of insurance shall be on forms provided by DISTRICT directly following these Insurance Requirements.

PROPOSERS are not required to submit completed insurance verification documents with their proposal but will be required to submit them upon notification of award. By signing Exhibit A – RFP Response Packet, the Proposer agrees to meet the minimum insurance requirements stated in the RFP.

I. The following provisions applicable to all required insurance:

- A. Prior to the beginning of and throughout the duration of Services, and for any additional period of time as specified below, CONTRACTOR shall, at its sole cost and expense, maintain insurance in conformance with the requirements set forth below.
- B. CONTRACTOR shall provide Verification of Insurance as required by this Agreement by providing the completed Verification of Insurance as requested below 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.

## **INSURANCE VERIFICATION DOCUMENTS**

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

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

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

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

Self-Insured Retention: Amount: \$ \_\_\_\_\_

Policy Limit: \$ \_\_\_\_\_

Policy Number: \_\_\_\_\_

Policy Period: from: \_\_\_\_\_ to: \_\_\_\_\_

Insurance Carrier Name: \_\_\_\_\_

Insurance Broker or Agent: Print Name: \_\_\_\_\_

Insurance Broker or Agent's Signature: \_\_\_\_\_

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

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

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

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

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

D. Coverage must be on an occurrence basis.

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

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

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

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

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

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

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

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

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

#### **Verification of Commercial General Liability (CGL) Insurance Coverage**

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

**Self-Insured: Amount: \$** \_\_\_\_\_

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



**Policy Number:** \_\_\_\_\_

**Policy Period: from:** \_\_\_\_\_ **to:** \_\_\_\_\_

**Insurance Carrier Name:** \_\_\_\_\_

**Insurance Broker or Agent: Print Name:** \_\_\_\_\_

**Insurance Broker or Agent's Signature:** \_\_\_\_\_

#### **IV. Business Auto Liability Insurance Coverage**

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

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

B. Minimum Requirements. Auto insurance with minimum coverage and limits as follows:

Each Occurrence Limit (per accident) and in the Aggregate:	\$2,000,000
Bodily Injury and Property Damage:	\$2,000,000

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

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

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

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

F. To the fullest extent permitted by law, the DISTRICT, its directors, board, and committee members,

officers, officials, employees, agents, and volunteers must be covered as Additional Insureds on a primary and noncontributory basis on all underlying and excess and umbrella policies. The Additional Insureds must be covered for liability arising in whole, or in part, from any premises, Products, Ongoing Operations, and Completed Operations by or on behalf of CONSULTANT, in any way related to Services performed under this Agreement.

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

#### **Verification of Business Auto Liability Insurance Coverage**

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

**Self-Insured: Amount: \$** \_\_\_\_\_

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

**Policy Number:** \_\_\_\_\_

**Policy Period: from:** \_\_\_\_\_ **to:** \_\_\_\_\_

**Insurance Carrier Name:** \_\_\_\_\_

**Insurance Broker or Agent: Print Name:** \_\_\_\_\_

**Insurance Broker or Agent's Signature:** \_\_\_\_\_

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

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

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

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

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



Aggregate Limit:

\$2,000,000

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

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

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

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

**Verification of Professional Liability (Errors and Omissions) Insurance Coverage**

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

**Self-Insured: Amount: \$** \_\_\_\_\_

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

**Policy Number:** \_\_\_\_\_

**Policy Period: from:** \_\_\_\_\_ **to:** \_\_\_\_\_

**Insurance Carrier Name:** \_\_\_\_\_

**Insurance Broker or Agent: Print Name:** \_\_\_\_\_

**Insurance Broker or Agent's Signature:** \_\_\_\_\_

**VI. Excess and/or Umbrella Liability Insurance Coverage**

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

B. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policies or proceeds available to the Named Insured. It is agreed that these

insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the CONSULTANT.

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

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

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

**Verification of Excess and/or Umbrella Liability Insurance Coverage**

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

**Self-Insured: Amount: \$** \_\_\_\_\_

**Policy Number:** \_\_\_\_\_

**Policy Period: from:** \_\_\_\_\_ **to:** \_\_\_\_\_

**Insurance Carrier Name:** \_\_\_\_\_

**Insurance Broker or Agent: Print Name:** \_\_\_\_\_

**Insurance Broker or Agent's Signature:** \_\_\_\_\_

## **EXHIBIT C**

# **CONSULTING AND PROFESSIONAL SERVICES AGREEMENT**

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

**Construction Management and Inspection Services**

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

**WITNESSETH**

WHEREAS, DISTRICT requires consulting services for construction management and inspection services and

WHEREAS, CONSULTANT has submitted a proposal to provide consulting services for construction management and inspection services for the Upper San Leandro and Sobrante Water Treatment Plants, and on as-needed basis for the construction phase of various District Capital Improvement Projects and CONSULTANT represents that it has the experience, licenses, qualifications, staff expertise and where necessary the required Department of Industrial Relations (“DIR”) registration to perform said services in a professional and competent manner; and

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

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

## **ARTICLE 1 - SCOPE OF WORK**

- 1.1. CONSULTANT agrees to furnish services set forth in Exhibit A, Scope of Services, attached hereto and incorporated herein. The services authorized under this Agreement shall also include all reports, manuals, plans, and specifications as set forth in Exhibit A.
- 1.2. It is understood and agreed that CONSULTANT has the professional skills necessary to perform the work agreed to be performed under this Agreement, that DISTRICT relies upon the professional skills of CONSULTANT to do and perform CONSULTANT's work in a skillful and professional manner, and CONSULTANT thus agrees to so perform the work. CONSULTANT represents that it has all the necessary licenses to perform the work and shall maintain them during the term of this Agreement. CONSULTANT agrees that the work performed under this Agreement shall follow practices usual and customary to the engineering profession and that CONSULTANT is the engineer in responsible charge of the work for all activities performed under this Agreement. Acceptance by DISTRICT of the work performed under this Agreement does not operate as a release of CONSULTANT from such professional responsibility for the work performed.
- 1.3. CONSULTANT agrees to maintain in confidence and not disclose to any person or entity, without DISTRICT's prior written consent, any trade secret or confidential information, knowledge or data relating to the products, process, or operation of DISTRICT. CONSULTANT further agrees to maintain in confidence and not to disclose to any person or entity, any data, information, technology, or material developed or obtained by CONSULTANT during the term of this Agreement. The covenants contained in this paragraph shall survive the termination of this Agreement for whatever cause.
- 1.4. 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 CONSULTANT or its subconsultants in connection with these services shall be delivered to and shall become the exclusive property of DISTRICT. DISTRICT is licensed to utilize these documents for DISTRICT applications on other projects or extensions of this project, at its own risk. CONSULTANT and its subconsultants may retain and use copies of such documents, with written approval of DISTRICT.
- 1.5. CONSULTANT is an independent CONSULTANT and not an employee of DISTRICT. CONSULTANT expressly warrants that it will not represent that it is an employee or servant of DISTRICT.
- 1.6. CONSULTANT is retained to render professional services only and all payments made are compensation solely for such services as it may render and recommendations it may make in carrying out the work.
- 1.7. It is further understood and agreed by the parties hereto that CONSULTANT in the performance of its obligations hereunder is subject to the control or direction of DISTRICT as to the designation of tasks to be performed, the results to be accomplished by the services hereunder agreed to be rendered and performed, and not the means, methods, or sequence used by CONSULTANT for accomplishing the results.

- 1.8. If, in the performance of this agreement, any third persons are employed by CONSULTANT, such person shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. All terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by CONSULTANT, and DISTRICT shall have no right or authority over such persons or the terms of such employment.
- 1.9. It is further understood and agreed that as an independent CONSULTANT and not an employee of DISTRICT, neither CONSULTANT nor CONSULTANT's assigned personnel shall have any entitlement as a DISTRICT employee, right to act on behalf of DISTRICT in any capacity whatsoever as agent, nor to bind DISTRICT to any obligation whatsoever. CONSULTANT shall not be covered by DISTRICT's worker's compensation insurance; nor shall CONSULTANT be entitled to compensated sick leave, vacation leave, retirement entitlement, participation in group health, dental, life or other insurance programs, or entitled to other fringe benefits payable by DISTRICT to employees of DISTRICT.

## **ARTICLE 2 - COMPENSATION**

- 2.1. For the Scope of Services described in Exhibit A, DISTRICT agrees to pay CONSULTANT actual costs incurred, subject to a Maximum Cost Ceiling of \$(*insert dollars*). Compensation for services shall be in accordance with the method and amounts described in Exhibit B, attached hereto and incorporated herein. CONSULTANT acknowledges that construction work on public works projects requires DIR registration and is subject to prevailing wage rates and includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work. CONSULTANT certifies that the proposed cost and pricing data used herein reflect the payment of prevailing wage rates where applicable and are complete, current, and accurate.
- 2.2. In case of changes affecting project scope resulting from new findings, unanticipated conditions, or other conflicts or discrepancies, CONSULTANT shall promptly notify DISTRICT of the identified changes and advise DISTRICT of the recommended solution. Work shall not be performed on such changes without prior written authorization of DISTRICT.

## **ARTICLE 3 - NOTICE TO PROCEED**

- 3.1. This Agreement shall become effective upon execution of the second signature. CONSULTANT shall commence work upon receipt of DISTRICT's Notice to Proceed, which shall be in the form of a letter signed by DISTRICT's Project Manager. DISTRICT's Notice to Proceed will authorize the Contracted Services described in Exhibit A with ceiling prices described in ARTICLE 2 - COMPENSATION. No work shall commence until the Notice to Proceed is issued.

## **ARTICLE 4 - TERMINATION**

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

#### **ARTICLE 5 -PROJECT MANAGERS**

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

#### **ARTICLE 6 - CONTRACT EQUITY PROGRAM COMPLIANCE**

- 6.1. CONSULTANT expressly agrees that this Agreement is subject to DISTRICT's Contract Equity Program ("CEP"). CONSULTANT is familiar with the DISTRICT's CEP and Equal Opportunity Guidelines and has read and understood all of the program requirements. CONSULTANT understands and agrees to comply with the CEP and all requirements therein, including each of the Good Faith Efforts. CONSULTANT further understands and agrees that non-compliance with the CEP requirements may result in termination of this Agreement.
- 6.2. Designated CEP compliance for the duration of this Agreement is listed in Exhibit D, which is attached hereto and incorporated herein. CONSULTANT shall maintain records of the total



amount actually paid to each subconsultant. Any change of CONSULTANT's listed subconsultants shall be subject to approval by DISTRICT's Project Manager.

## **ARTICLE 7 - INDEMNIFICATION AND INSURANCE**

### **7.1. Indemnification**

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

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

### **7.2.**

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

### **7.3.**

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

### **7.4.**

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

### **7.5. Insurance Requirements**

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

## **ARTICLE 8 - NOTICES**

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

*(insert consulting firm's name)*

*(insert address)*

Attention: *(insert the CONSULTANT's project manager),*

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

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

Director of ***Engineering and Construction Department***

P.O. Box 24055

Oakland, CA 94623-1055

Email: Javier.prosperop@ebmud.com

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

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

## **ARTICLE 9 - MISCELLANEOUS**

- 9.1. This Agreement represents the entire understanding of DISTRICT and CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may only be modified by amendment in writing signed by each party.
- 9.2. This Agreement is to be binding on the successors and assigns of the parties hereto. The services called for herein are deemed unique and CONSULTANT shall not assign, transfer or otherwise substitute its interest in this Agreement or any of its obligations hereunder without the prior written consent of DISTRICT.
- 9.3. Should any part of this Agreement be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement can be interpreted to give effect to the intentions of the parties.
- 9.4. Multiple copies of this Agreement may be executed by the parties and the parties agree that the Agreement on file at the DISTRICT is the version of the Agreement that shall take precedence should any differences exist among counterparts of the Agreement.

- 9.5. This Agreement and all matters relating to it shall be governed by the laws of the State of California.
- 9.6. 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. CONSULTANT 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.

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

CONSULTANT shall include the nondiscrimination provisions above in all subcontracts.

- 9.8. CONSULTANT affirms that it does not have any financial interest or conflict of interest that would prevent CONSULTANT from providing unbiased, impartial service to 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: \_\_\_\_\_  
*Serge V. Terentieff*  
*Director of Engineering and Construction*

Date \_\_\_\_\_

Approved As To Form

By: \_\_\_\_\_  
for the Office of General Counsel

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

By: \_\_\_\_\_  
*(Name),*  
*(Title)*

Date \_\_\_\_\_

## **EXHIBIT A**

### **East Bay Municipal Utility District Construction Management and Inspection Services**

#### **SCOPE OF SERVICES**

##### **I. CONSULTANT SERVICES**

CONSULTANT shall provide the following:

**a) Construction Inspection**

- Provide inspection services to assure compliance with the quality and functional requirements of the specifications including, but not limited to, general, warranty, and special inspections.
- Conduct periodic surveillance and inspection of the work, monitor the construction contractor's quality processes, and coordinate field sampling and testing for verification of quality results as needed.
- Prepare daily inspection reports and other quality records, including deficiency notices, using the District's online Construction Management Information System - Kahua.
- Assist in planning for and coordinating all QA inspection activities, compiling all daily inspection records, reviewing field construction-related submittals, inspecting all material and equipment arriving on site, monitoring resolution of all quality issues, and leading the Ready for Service and Final Completion inspections. Anticipated QA inspection needs may include, but are not limited to, the following disciplines: civil/structural/architectural, mechanical, electrical/I&C, geotechnical, welding, coating/corrosion, and hazardous materials.
- Provide inspection services for electrical power and control systems and equipment, medium and low-voltage switchgear, motor control, duct banks, LED lighting, solar panels, instrumentation, control, and SCADA systems.

**b) Construction Management**

- Provide overall management of the project or over the assigned areas of responsibility.
- Provide CM services including, but not limited to, the management of construction contracts.
- Provide contract administration activities, and CM support staff. Coordinate with Design and O&M staff to resolve construction issues. Manage construction contractors to ensure compliance with the District's plans and specifications. Ensure that projects are completed safely, within budget, within the specified contract duration, and in accordance with applicable laws and regulations.

**c) Quality Assurance**

- Develops, plans, executes, and manages the District's construction quality assurance program for the project. The quality assurance program is a system of procedures that define planned and systematic activities executed in the course of a job to fulfill the project's quality requirements.
  - Manages quality assurance material testing, reviews technical submittals for conformance with the contract documents, reads and interprets technical specifications, recommends to District's Project Manager issuance of deficiency notices for non-conformances, and monitors the construction contractor's execution of their quality control plan.
  - Attends as the District's primary representative the Contractor's QC preparatory, initial, and follow-up phase meetings for each definable feature of work.
  - Reviews and approves contractor quality control, Construction Quality Assurance Inspectors, and District quality assurance daily field reports.
- d) **Project Controls**
- Develop processes and tools for the team to properly manage project cost, schedule, and risk.
  - Monitor project cost & schedule status and documenting issue progression.
  - Review and evaluate contractor requests for change.
  - Work closely with the Office Engineer, Field Engineers, and Construction Managers to reviews District responses to submittals and RFIs for completeness, compliance with the specifications, and potential cost & schedule impacts.
  - Draft and recommend Change Order Requests and dispute documentation responses for the Project Manager and assists with change order negotiation and preparation.
- e) **Office Engineering**
- Provides document control, records management support and project-specific administrative support to project CM field offices and EBMUD Construction Division. Services may include, assists the PM/RE/CM in the administration of the CM process managing the submittal and RFI process through Kahua, the existing Construction Management Information System, resolve and process monthly progress payments.
  - Provides support and assists as the liaison between Construction and Design, prepare progress meeting agenda and prepare meeting minutes, coordinates turnover of Operations & Maintenance manuals, spare parts, and warranties to EBMUD Operations.
  - Troubleshoots and resolves field issues and performs construction inspection tasks as necessary. Reports to EBMUD's Project Manager.
- f) **Environmental Review and Monitoring**
- Provide biological, arboricultural, and archaeological consulting to support compliance with environmental permit conditions, and local, county, state, and federal regulations in the construction industry. Provide pre-construction biological habitat assessment, and monitoring as needed during construction. Provide consultation on tree trimming, root disturbance, and tree removal. Evaluate the archeological or cultural significance of construction work areas, and discoveries made during construction.

**g) Materials Testing**

- Provide management and coordination of special laboratory testing on select, suitable samples to assure compliance with quality and functional requirements of the specifications. Materials testing services must be located within 50 miles of any specified EBMUD work areas, which include the following counties: Alameda County, Contra Costa County, Solano County, San Joaquin County, Calaveras County and Amador County. Proposers may propose more than one firm to provide materials testing services to the various work areas.

**h) Construction Safety**

- Provide construction safety inspection and oversight including review of construction contractor's and CM's project safety documents for compliance with contract terms relating to safety.
- Assist in the investigation and reporting of safety incidents and maintain records of safety compliance and effectiveness.
- Organize safety trainings for project CM staff as well as develop and implement, as necessary, safety approaches and procedures for various construction programs or projects.

## EXHIBIT B

### East Bay Municipal Utility District Construction Management and Inspection Services

#### COMPENSATION

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

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

2.1. Direct Labor

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

2.2. Indirect Costs

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

- Clerical, word processing and/or accounting work.
- Vehicle usage and mileage between CONSULTANT's office and DISTRICT offices or work locations within DISTRICT service area. For work outside of 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 CONSULTANT in the DISTRICT Administration Building, located at 375 11th Street, Oakland, California. CONSULTANT shall be responsible for parking elsewhere).
- Postage, or for certified or registered mail. Extraordinary postage, overnight delivery, or messenger delivery charges must be approved in advance.



- Routine copying costs for in-house copying.
- Local telephone charges, including cellular phone, modem and telecopier/ FAX charges.
- Office space lease.
- Office supplies.
- Computer equipment.
- Computer usage charges.
- Books, publications and periodicals.
- Insurance.
- Miscellaneous hand tools or equipment rental.
- Safety training, seminars or continuing education.
- Utilities.
- Local meals, transportation or other travel charges.
- Inadequately described or miscellaneous expenses.

The above items are illustrative, rather than exhaustive.

### 2.3. Subconsultant Services

Subconsultant services shall be billed at cost (plus a **5** percent markup).

### 2.4. Other Direct Costs

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

- 2.4.1. Automobile expenses at **(insert rate)** cents per mile when CONSULTANT is required to travel outside of DISTRICT's service area, which includes, Alameda, Contra Costa, San Joaquin, Amador, and Calaveras Counties.. 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.

2.4.3. Direct reimbursable expenses (ODCs- Other Direct Costs) shall include actual direct costs (with no markup) of expenses directly incurred in performing the work. All ODCs are subject to pre-approval in writing by the District's Project Manager. The following items will be eligible for reimbursement as ODCs:

- Out-of-town travel ("out-of-town" shall mean outside the following counties: San Francisco, Alameda, Marin, Santa Clara, Sonoma, Contra Costa, Napa, San Mateo, Solano, San Joaquin, Amador, and Calaveras);
- Out-of-town meal, travel and lodging expenses for project-related business trips, including, but not limited to:
  - Rental vehicle: traveler must select the most economical contractor and type of vehicle available and acquire any commercial rate or government discount available when the vehicle is rented.
  - Personal vehicle use: Consultant will be paid per mile as established by the United State Internal Revenue Service and only for that portion of travel that is outside San Francisco, Alameda, Marin, Santa Clara, Sonoma, Contra Costa, Napa, San Mateo, Solano, San Joaquin, Amador, and Calaveras counties and non-routine. Should the travel begin or end on a normal workday, the Consultant shall subtract commuting mileage from total mileage to calculate reimbursable mileage. The Consultant shall submit to the District an approved mileage log with its monthly invoices.
  - Meal and lodging expenses shall be reasonable and actual but limited to Federal government per diem rates.
  - Specialty printing ("specialty" as used herein shall mean large volume printing and color printing and requires prior written approval by District project staff and documentation of the written approval by the District must be included with the invoice).
  - Specialty computer hardware and software (only with prior written approval by District project staff and documentation of the written approval by the District must be included with the invoice - all hardware and software will be the property of the District).
  - Courier services that are project related and originated from the project site offices.
  - Permit fees.
  - Expedited courier services when requested by District staff; and
  - Safety equipment.

Anything not listed above is not eligible for reimbursement. They include, but are not limited to:

- All other travel expenses such as parking, bridge tolls, public transit, vehicle mileage within the District's service area
- Consultant personnel relocation costs.
- Any home or regional office labor charges or pass-throughs, including but not limited to, administrative and clerical personnel time.
- Personnel relocation and temporary assignment expenses.
- Entertainment expenses.
- Cell phones.
- Home office expenses.
- Telephone calls and faxes originating in the firm's home office, standard computer use charges, computer hardware or software computer hardware or software (other than the specialty hardware or software mentioned above), communication devices, and electronic equipment.
- Meal expenses which are not related to project-related business trips, including refreshments and working lunches with District staff.
- Equipment to be used by District staff.
- Postage and courier services which are not requested by District staff.

## 2.5 Budget Amounts

### **Maximum Cost Ceiling: \$XXXXX**

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, Subconsultant Services and Other Direct Costs shall be payable up to the Maximum Cost Ceiling as specified herein.

## 2.5. Billing and Payment

CONSULTANT shall invoice DISTRICT monthly for the actual costs incurred for work performed during the previous month. Actual costs shall include Direct Labor, Indirect Costs, Subconsultant Services, and Other Direct Costs as specified herein. Actual costs shall be invoiced by task as described in EXHIBIT A – 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 subconsultants(s) and outside service(s) shall be attached. **Where CONSULTANT is required by law to pay prevailing wage rates, supporting documentation for such work shall be in accordance with guidelines set forth below and shall include certified payroll reports.** DISTRICT shall pay CONSULTANT within thirty (30) days, upon receipt of a proper CONSULTANT invoice, provided that all invoices are accompanied by sufficient cost documentation, and DISTRICT Form P-47 (Subconsultant Payment Report - CEP Participation), to allow the determination of the reasonableness and accuracy of said invoice.

The Maximum Cost Ceiling is in effect for the entire Scope of Services. If the authorized Maximum Cost Ceiling is reached, CONSULTANT shall complete the agreed-upon work for the authorized Maximum Cost Ceiling. Labor hours may be reallocated within the tasks without renegotiation of the Agreement with written approval from 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.

Consultant's billing rates and each and every staff classification as stated in Exhibit B-1 Fee Schedule will be the billing rates for the listed individuals. Billing rates will be fixed for the first year of the contract and may be adjusted annually thereafter. The first adjustment may be made no earlier than the first anniversary of the effective start date as indicated in the original Notice of Contract Award letter. The amount of the adjustment is limited to a maximum of the CPI annual percentage change increase (San Francisco Bay Area for Urban Wage Earners and Clerical Workers) for the previous calendar year.

#### 2.6. Budget Status Reports

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

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

- 2.7.1. All CONSULTANTs and subconsultants of any tier bidding on, or offering to perform work on a public works project shall first be registered with the State Department of Industrial Relations (DIR) pursuant to Section 1725.5 of the Labor Code. No bid will be accepted nor any contract entered into without proof of the CONSULTANT and subconsultants' current registration with the DIR (LC § 1771.1).
- 2.7.2. All public works projects awarded after January 1, 2015, are subject to compliance monitoring and enforcement by the DIR (LC § 1771.4) and all CONSULTANTs are required post job site notices, "as prescribed by regulation" (LC § 1771.4).
- 2.7.3. Pursuant to Section 1773 of the Labor Code, the DISTRICT has obtained from the Director of Industrial Relations of the State of California, the general prevailing rates of per diem wages and the general prevailing rates for holiday and overtime work in the locality in which the Work is to be performed, for each craft, classification, or type of worker needed to execute the contract. A copy of the prevailing wage rates is on file with the DISTRICT and available for inspection by any interested party at [www.dir.ca.gov](http://www.dir.ca.gov).
- 2.7.4. CONSULTANT shall post a copy of the general prevailing rate of per diem wages at the jobsite pursuant to Section 1773.2 of the Labor Code.
- 2.7.5. Pursuant to Section 1774 of the Labor Code, CONSULTANT and any of its subconsultants shall not pay less than the specified prevailing rate of wages to all workers employed in the execution of the contract.
- 2.7.6. CONSULTANT shall, as a penalty to the State or the DISTRICT, forfeit not more than the maximum set forth in Section 1775 of the Labor Code for each calendar day, or portion thereof, for each worker paid less than the prevailing rates for the work or craft in which the worker is employed under the contract by the CONSULTANT or by any of its subconsultants. The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which such worker was paid less than the stipulated prevailing wage rate shall be paid to such worker by the CONSULTANT.
- 2.7.7. General prevailing wage determinations have expiration dates with either a single asterisk or a double asterisk. Pursuant to California Code of Regulations, Title 8, Section 16204, the single asterisk means that the general prevailing wage determination shall be in effect for the specified contract duration. The double asterisk means that the predetermined wage modification shall be paid after the expiration date. No adjustment in the Maximum Agreement Ceiling will be made for the CONSULTANT's payment of these predetermined wage modifications.

- 2.7.8. CONSULTANT and each subconsultant shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed in connection with the Services. The payroll records shall be certified and shall be available for inspection in accordance with the provisions of Section 1776 of the Labor Code. Certified payroll records shall be on the forms provided by the DIR or contain the same information required on the Department's form.
- 2.7.9. For public works projects awarded on or after April 1, 2015, or that are still ongoing after April 1, 2016, no matter when awarded, each CONSULTANT and subconsultant shall furnish the certified payroll related records as more specifically described above and in Labor Code section 1776 directly to the Labor Commissioner (see LC § 1771.4). These records shall be provided to the Labor Commissioner at least monthly or more frequently if required by the terms of the contract. For exception on projects covered by collective bargaining agreements like a PLA, please see Labor Code section 1771.4.
- 2.7.10. In the event of noncompliance with the requirements of Section 1776 of the Labor Code, CONSULTANT shall have 10 days in which to comply subsequent to receipt of written notice specifying in what respects such CONSULTANT must comply with said Section. Should noncompliance still be evident after such 10-day period, CONSULTANT shall, as a penalty to the State or the DISTRICT, forfeit the amount set forth in Section 1776 of the Labor Code for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payments then due.
- 2.7.11. Pursuant to the provisions of Sections 1810, et seq. of the Labor Code the time of service of any worker employed upon the work shall be limited and restricted to eight hours during any one calendar day, and forty hours during any one calendar week, unless work performed by employees of CONSULTANT in excess of eight hours per day, and forty hours during any one calendar week, shall be permitted upon compensation for all hours worked in excess of eight hours per day at not less than one and one half times the basic rate of pay.
- 2.7.12. CONSULTANT shall, as a penalty to the State or the DISTRICT, forfeit the amount set forth in Section 1813 of the Labor Code for each worker employed by CONSULTANT or by any subconsultant for each calendar day during which such worker is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week in violation of the provisions of Labor Code, Sections 1810, et seq.

- 2.7.13. CONSULTANT and every subconsultant shall keep an accurate record showing the name of and the actual hours worked each calendar day and each calendar week by each worker employed by him in connection with the Services; the record shall be kept open at all reasonable hours to the inspection of the DISTRICT and to the Division of Labor Standards Enforcement of the State of California.
- 2.7.14. In the performance of a public works contract, CONSULTANT and any subconsultant shall comply with the provisions concerning the employment of apprentices in Section 1777.5 of the Labor Code and any amendments thereof. In the event CONSULTANT or any subconsultant willfully fails to comply with this requirement CONSULTANT or subconsultant shall be subject to the penalties for noncompliance in Labor Code section 1777.7.
- 2.7.15. CONSULTANT and every subconsultant shall post at the workplace and comply with all required wage related workplace postings. Copies of the required postings may be downloaded or ordered electronically from the Department of Industrial Relations website at <http://www.dir.ca.gov/wpnodb.html>.

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

**EXHIBIT B-1 – Cost Distribution**

**East Bay Municipal Utility District  
Construction Management and Inspection Services**

	CONSULTANT						Subconsultants**						
	Direct Labor						Subconsultant # 1			Subconsultant # 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 CONSULTANT markup in subconsultant hourly rates.

\*\*\* *Insert hourly rate.*



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

**EXHIBIT B-2 – Labor Distribution\***

**East Bay Municipal Utility District  
Construction Management and Inspection Services**

	CONSULTANT				SubCONSULTANTs***						
					SubCONSULTANT # 1			SubCONSULTANT # 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 CONSULTANT and subconsultant hours. Also, include the percent time commitment for key personnel if a critical issue for success of the project.)*

## **EXHIBIT C**

### **INSURANCE REQUIREMENTS**

#### **I. Provisions Applicable to All Required Insurance**

A. Prior to the beginning of and throughout the duration of Services, and for any additional period of time as specified below, 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 C ("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.

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

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

Coverage A. Statutory Benefits Limits

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

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

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

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

- B. 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:** \_\_\_\_\_

### **III. 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:** \_\_\_\_\_

**IV. 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:** \_\_\_\_\_

#### **V. 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:** \_\_\_\_\_

## **VI. Pollution Liability Insurance Coverage**

- A. CONTRACTOR's insurance shall be primary, and any insurance or self-insurance procured or maintained by the DISTRICT shall not be required to contribute to it.
- B. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policies or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the CONTRACTOR.
- C. Minimum Requirements: Pollution Liability Insurance with minimum limits, as follows:
  - Each Claim or Occurrence Limit: \$2,000,000
  - Aggregate Limit: \$2,000,000
- D. Coverage must be included for bodily injury and property damage, including coverage for loss of use and/or diminution in property value, and for clean-up costs arising out of, pertaining to, or in any way related to the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of contaminants or pollutants, arising out of, pertaining to, or in any way resulting from any Services performed by CONTRACTOR under this Agreement; including any transportation of hazardous wastes, hazardous materials, or contaminants.
- E. If Coverage is written on a claims-made form, the following shall apply:
  - 1. The retroactive date must be shown and must be before the date of the Agreement or the beginning of the Services.
  - 2. Insurance must be maintained, and evidence of insurance must be provided for a minimum of three (3) years after completion of the Services.
  - 3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Agreement, CONTRACTOR must purchase an extended reporting period for a minimum of three (3) years after completion of the Services.
- F. Insurance written on a claims-made basis shall include prior acts coverage sufficient to cover the services provided by CONTRACTOR under this Agreement.

## **Verification of Pollution Liability Insurance Coverage**

**As the CONTRACTOR'S Insurance Broker/Agent, Officer, or Risk Manager, I hereby verify**

that I have reviewed and confirmed that the CONTRACTOR carries Pollution Liability insurance, as required by this Agreement, including the relevant provisions applicable to all required insurance.

Self-Insured Retention: Amount: \$ \_\_\_\_\_

Policy Limit: \$ \_\_\_\_\_

Policy Number: \_\_\_\_\_

Policy Period: from \_\_\_\_\_ to \_\_\_\_\_

Insurance Carrier Name: \_\_\_\_\_

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

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

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

A. The insurance requirements set forth above may be satisfied by a combination of primary and excess or umbrella policies. Where excess or umbrella policies are used the following shall apply:

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

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

D. Minimum Requirements: It is expressly understood by the parties that CONTRACTOR's Excess and/or Umbrella Liability policies shall, at minimum, comply with all insurance requirements set forth within this Agreement, and shall be at least as broad as coverage required of the underlying policies required herein.

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

#### **Verification of Excess and/or Umbrella Liability Insurance Coverage**

**As the CONTRACTOR’S Insurance Broker/Agent, Officer, or Risk Manager, I hereby verify that I have reviewed and confirmed that the CONTRACTOR carries Excess and/or Umbrella Liability insurance, as required by this Agreement, including the relevant provisions applicable to all required insurance.**

**Excess/Umbrella Limits: Amount \$** \_\_\_\_\_

**Policy Limit: \$** \_\_\_\_\_

**Policy Number:** \_\_\_\_\_

**Policy Period: from** \_\_\_\_\_ **to** \_\_\_\_\_

**Insurance Carrier Name:** \_\_\_\_\_

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

\_\_\_\_\_

**Insurance Broker/Agent or Officer or Risk Manager - Print Name:** \_\_\_\_\_

**Insurance Broker/Agent or Officer or Risk Manager's Signature:** \_\_\_\_\_

**EXHIBIT D**

**CEP COMPLIANCE**

**East Bay Municipal Utility District**  
**Construction Management and Inspection Services**

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

\* Does not include CONSULTANT's markup. *(Include this footnote only if your contract includes markup on subCONSULTANTS.)*

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



## EXHIBIT D

# 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**

### **OVERHEAD AND PROFIT SCHEDULE**

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

## FEE SCHEDULE for EBMUD Construction Management (CM) and Inspection Services

[Proposer's Name]

### OVERHEAD AND PROFIT SCHEDULE

(All Proposers to Complete)

Firms	Staff Classification/Title	Name of Proposed Staff Person	Base Rate (\$/hour)	Firm's Overhead and Profit Rate (OPR, or "multiplier")	Billing Rate (\$/hour, <i>not to exceed \$240/hour</i> )	Estimated Participation (% of Work)	Contribution to Effective Overhead and Profit Rate
[A]	[B]	[C]	[D]	[E]	[F]=[D]x[E]	[G]	[H]=[G]x[E]
[Prime Company Name]					\$0.00		0.00
					\$0.00		
					\$0.00		
					\$0.00		
					\$0.00		
[Company Name]					\$0.00		0.00
					\$0.00		
					\$0.00		
					\$0.00		
					\$0.00		
[Company Name]					\$0.00		0.00
					\$0.00		
					\$0.00		
					\$0.00		
					\$0.00		
[Company Name]					\$0.00		0.00
					\$0.00		
					\$0.00		
					\$0.00		
					\$0.00		
[Company Name]					\$0.00		0.00
					\$0.00		
					\$0.00		
					\$0.00		
					\$0.00		
[Company Name]					\$0.00		0.00
					\$0.00		
					\$0.00		
					\$0.00		
					\$0.00		
Effective Overhead & Profit Rate (EOPR):						0.00	