

# **REQUEST FOR PROPOSAL (RFP)**

## **for Water Distribution Pipeline Replacement Prioritization Software RFP #535-25-01**

### **ADDENDA**

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

### **CONTACT**

**Amanda Lee, Assistant Engineer**  
(510) 287-1878  
[amanda.lee@ebmud.com](mailto:amanda.lee@ebmud.com)

### **RESPONSE DUE**

June 17, 2025  
4:00 p.m. PST

### **SUBMIT ELECTRONICALLY TO\***

**Amanda Lee, EBMUD**  
[amanda.lee@ebmud.com](mailto:amanda.lee@ebmud.com)

*\*Hardcopy proposals will not be accepted*

# **EAST BAY MUNICIPAL UTILITY DISTRICT**

RFP for Water Distribution Pipeline Replacement Prioritization Software #535-25-01

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## I. STATEMENT OF WORK

### A. SCOPE

It is the intent of these specifications, terms, and conditions to describe the general services agreement to develop a Software as a Service (SaaS) required to analyze and prioritize the replacement of water distribution pipelines and appurtenances using factors including but not limited to material, diameter, age, historical failure data, geotechnical conditions, and operating pressures and rank all pipe segments based on Likelihood of Failure (LOF), Consequence of Failure (COF), and Total Risk or Business Risk Exposure (BRE).

East Bay Municipal Utility District (District) intends to award a one-year contract (with two options to renew for one-year terms) at the District's discretion to the Proposer(s) who best meets the District's requirements.

### BACKGROUND

The District operates and maintains approximately 4,200 miles of water distribution and transmission pipelines serving over 1.4 million customers in the East Bay. Currently, the District utilizes a risk-based model focusing on LOF to prioritize water main replacements. The District's existing risk model utilizes historical pipeline leak and age data to determine the LOF of individual pipeline segments and assign risk grades. The pipeline segments are assigned to five risk grades from "A" to "F" with "A" having the lowest LOF and "F" having the highest LOF. These risk grades are used to inform decisions related to the selection of pipeline replacement projects.

The District would like to use artificial intelligence (AI), machine learning (ML), or an algorithm-based software to virtually assess the condition and risk of its water mains, identify patterns based on past failures, prioritize water mains and appurtenances for renewal based on transparent risk variables, prepare project selection recommendations, and predict future water main failures and time until the next failure. This software will be used for the selection and planning of water main replacement Capital Improvement Projects (CIP).

Table 1: District Pipeline Summary

Material	Small Diameter, ≤20 inch (miles)	Large Diameter, > 20 inch (miles)
Asbestos Cement	1,117	0
Cast Iron	1,158	3
Steel	1,090	232
Other	562	29

Total	3,927	264
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B. PROPOSER QUALIFICATIONS

1. Proposer Minimum Qualifications
  - a. Proposer shall have been regularly engaged in the business of providing a commercially available risk-based prioritization software for water main risk modeling and failure predictions for at least three years.
2. Proposer shall provide a minimum of:
  - a. Two United States (US) utility references of any size that have utilized the Proposer's software in the past three years
  - b. Two US utility references of any size that have competitively compared the Proposer's software solution with at least one other vendor's solution
  - c. Two US utility references of equal or larger size to the District (4,200 miles of distribution main pipelines) (not required but preferred)

C. SPECIFIC REQUIREMENTS

The District is seeking water distribution pipeline replacement prioritization software that can consider complex relationships between variables (i.e. geohazards such as faults, system pressures, traffic data, pipe material, proximity to water bodies, etc.) and incorporate relevant District data and data from public sources to determine LOF, COF, and BRE, as detailed below.

Under this RFP, the selected Proposer will perform the necessary tasks to demonstrate the software to District staff, provide training on the software, and provide the necessary support so District staff can run the model and utilize the results for pipeline replacement prioritization and maintenance planning.

Proposals shall include detailed information on how the Proposer's software and software implementation will meet the District's requirements below.

**Software Capabilities** - The Proposer shall provide a detailed description of the risk prioritization software.

- Provide a functional overview of how the software calculates LOF, COF, and BRE. Detail the data sources the software pulls from and the variables used in determining risk scores.

Required: The Proposer shall demonstrate if the software meets the minimum capabilities below. At a minimum, the software must provide the following functionality:

- Capability to evaluate complex relationships among variables using AI/ML or other advanced algorithms. This includes the ability to incorporate external data sources not provided by the District. Proposer shall describe how AI/ML or algorithmic models are utilized and the primary assumptions the model uses.
- Ability to predict potential future leaks on pipes that have previously failed and pipes with no history of breaks. Provide data on model accuracy if available. The model should have the ability to provide spatial resolution of the prediction, such as detailing where the leak is identified (i.e. a pipe segment is identified as likely to leak or a 50-foot range of pipe where a leak is likely to occur).
- The model must be able to predict asset and asset class deterioration (i.e. increase of failure rate) over a defined time period.
- The software must allow the user to view data and results spatially (GIS map) and in tabular form. All tabular data should be exportable. The Proposer must describe the ability to create custom queries for LOF, COF, and BRE results for data viewing and analytics.

Optional: The Proposer shall provide information if the software has the following functionalities or others not listed.

- Ability for District staff to customize LOF, COF, and BRE inputs by modifying or adding new variables and adjusting weights. Detail the ability to freely add and assess other sources of potential explanatory variables, based on tabular or geographical data formats (i.e. soil composition, proximity to creeks, traffic, etc.).
- Ability to calculate or incorporate District hydraulic modeling parameters, such as minimum pressure, pressure variation, and velocity to inform risk scoring or asset prioritization.
- Ability to see what variables contribute to the LOF, COF, BRE results. Results shall be easily understood and the District would like the ability to select individual pipes and turn on/off layers to see what variables contribute to their risk values.
- Ability to perform predictive modeling to estimate remaining useful life calculation and estimation for year of failure. Clearly describe the methodology of how remaining useful life is calculated and specific timeframes that can be predicted (i.e. 5, 10, 20, 50 years).

- Ability to optimize pipeline replacements for CIP Planning by grouping nearby pipelines for efficient replacement based on user-defined parameters, such as, the ability to target minimum and maximum project cost, project length, or renewal rate.
- Ability to determine which pipes would benefit from condition assessment and leak detection loggers and predict pipe condition for any moment in time based on condition or leak data.
- Ability to determine the number of valves needed to isolate a main, estimate the number of customers out of service, provide COF scores based on pipelines that may impact a large number of customer services, and view data in tabular form to better understand valve and pipe criticality.

**Data and Reporting** - The Proposer shall provide a detailed description of the following:

- Examples of the resulting visual analytics and reporting capabilities of the software. The District would like to create configurable charts, graphs, and dashboards of pipe and break data with GIS based visualizations.
- Estimation for overall level of time and resources to input District data into the analytics software and receive results.
- Limitations to the number of user accounts, concurrent users, or volume of data provided by a single license of the software.
- Platform deployment method and if it can be deployed from multiple platforms (i.e. laptops in the office, tablets, or smartphones).
- Capabilities for data input. Detail how the data shall be input into the software (i.e. District uploads through the software's user interface, web services, or by sending data files to a point of contact through digital means).
- Data required from the District and the type of acceptable file formats. The District will provide data including the following but not limited to pipe material, diameter, location, installation year, and historical break data. The District utilizes Esri ArcGIS Pro for asset data and Innovyze InfoWater for hydraulic modeling.
- Process to upload new data and run the software on demand. The District would like to provide continuous real-time data and add new data such as environmental factors to be incorporated to obtain the most up to date results. Detail the ability to run model with new datasets or updated data from the District.

- Method to export the data results from the software into an Esri GeoDatabase (i.e. .shp, .dbf, .xlsx, .csv format) and frequency. The District would like to access and download results at any moment without external assistance from the Proposer.
- Process for data cleaning, validation, and resolving anomalies or data gaps.
- Computer requirements for running SaaS that includes operating system compatibility, processing speed, RAM, storage space, and graphics card.

Following District review and evaluation of the RFP's, the selected Proposer shall complete the tasks below.

**Task 1: Proof of Concept** - The selected Proposer shall allow the District to test the software throughputs and outputs in order to validate that the product meets the minimum performance criteria detailed below. Note that the Proof of Concept will only be conducted with the Proposer selected through the evaluation criteria in Section III.

- As a minimum performance criterion to validate the predictive performance, the model must successfully identify at least 50% of the actual pipe failures within the top 20% of all pipe segments in the LOF rankings. To determine the top 20% of pipes, LOF scores are calculated and the pipes are ranked based on the LOF score.
- The District will provide pipeline GIS data, relevant attribute data like pipe material, age and diameter, and historical main break data. The historical main break data will only be given from the time period of 1990 to 2023 which will be provided in a .csv format. After the software has analyzed each segment and provided LOF scores, the results will be validated against actual break data from 2024 which will be used to benchmark for accuracy.
- The Proposer shall have four weeks to prepare and make available the results once all the required input has been received. The Proposer shall provide the District clear instructions on how to access and retrieve the resulting output data during the Proof of Concept period with guidance on interpreting the results.

If the minimum requirements are not met, the District reserves the right to terminate the contract at its sole discretion. If the contract does not proceed beyond the Proof of Concept period, the District will compensate the Proposer for their time to complete the Proof of Concept.

**Task 2: Installation, Training, and Support** - Provide start-up training at the beginning of the contract term to ensure the District is fully equipped to install, configure, and use the software effectively. The training must include, at a minimum:

- Detailed guidance on importing and exporting data, navigating the interface, running analysis, and interpreting the results.
- A detailed overview of the software's key functionalities such as calculating LOF, COF, BRE and using the software for pipeline project selection and prioritization.
- The Proposer and District shall mutually schedule training no later than 30 calendar days after commencement of the contract. The Proposer shall provide on-going support and technical assistance during regular business hours (8:00 AM to 5:00 PM PST; Monday through Friday, excluding District holidays). Provide details of any fees for resolving technical issues.
- **Meetings:** The Proposer shall conduct up to two meetings each up to two-hours in duration to conduct software installation and start-up training. Additional meetings shall be scheduled by mutual agreement after commencement of the contract.
- **Deliverables:** Provide training manual in electronic format (.pdf preferred) detailing how to utilize the software (data input, data export, determining LOF, COF, and BRE for pipelines, performing project selections, etc.) with clear, step-by-step instructions and annotated visuals where applicable.

**Task 3: Perform Risk Calculations** - The Proposer shall run the software to provide LOF, COF, and BRE scores. Data processing and cleaning may be included as an option under this task.

- The Proposer shall provide risk score results (LOF, COF, and BRE) for all pipe segments in accordance with the Software and Capabilities and Data and Reporting sections of this RFP.
- **Meetings:** The Proposer shall conduct up to two meetings each up to two-hours in duration to conduct review of preliminary risk score results and refine results. Additional meetings shall be scheduled by mutual agreement after commencement of the contract.
- **Deliverables:** Provide LOF, COF, and BRE risk scores for all pipe segments in accordance with Software and Capabilities and Data and Reporting sections. Optional Task - Provide data cleaning and processing with District data as requested by the District.

**Task 4: Maintenance and Upgrades** - The Proposer must provide regular maintenance and software upgrades, hotfixes, and security patches to ensure system performance and security.



- The Proposer must provide advanced written notification of all upgrades, hotfixes, and security patches at least three business days in advance of a scheduled outage.
- Upgrades to the software must be backward compatible and support at least two previous versions based on industry standard.
- Any upgrades that are mandated by the Proposer shall be at the cost of the Proposer.
- The software offered shall be the Proposer's most current version and incorporating the most updated design and technology and is currently in use by other clients. The Proposer shall provide the District with a summary of enhancements, bug fixes, and any change to data handling or interface as part of each upgrade.

## II. CALENDAR OF EVENTS

EVENT	DATE/LOCATION
RFP Issued	May 20, 2025
Response Due	June 17, 2025 by 4:00 p.m. PST
Anticipated Contract Start Date	August 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.

The District has prepared the following project schedule in order to meet pipeline risk grade deadlines. The identified workflow for this project is as follows:

Date	Event
August 2025	District provides data for Proof of Concept to selected Proposer
September 2025	Proof of Concept Results provided by Selected Proposer
October 2025	District provides required data for risk scores
October 2025	LOF, COF, BRE scores

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

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

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

#### **B. EVALUATION CRITERIA/SELECTION COMMITTEE**

All proposals will be evaluated by a Selection Committee. The Selection Committee may be composed of District staff and other parties that have expertise or experience in this type of procurement. The Selection Committee will select the 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. The Proposer should bear in mind that any RFP response that is unrealistic in terms of the technical or schedule commitments, or unrealistically high or low in cost, will be deemed reflective of an inherent lack of technical competence or indicative of a failure to comprehend the complexity and risk of the District’s requirements as set forth in this RFP.

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

The Evaluation Criteria are as follows:

	<b>Evaluation Criteria</b>
<b>A.</b>	<p><b>Technical Criteria:</b></p> <p>In each area described below, an evaluation will be made of the probability of success of, and risks associated with, the RFP response:</p> <ol style="list-style-type: none"> <li>1. Software Design and Development - The evaluation will compare the proposed software capabilities with the requirements of this RFP.</li> <li>2. Life-Cycle Support - An assessment will be made of the scope and extent of resources required to operate and maintain the proposed software system.</li> <li>3. Ancillary Services - A comparison will be made of the proposed services with the requirements of this RFP. Credit will be given for convenience, responsiveness, and technical expertise.</li> </ol>
<b>B.</b>	<p><b>Cost:</b></p> <p>The points for Cost will be computed by dividing the amount of the lowest responsive RFP response received by each Proposer's total proposed cost.</p> <p>While not reflected in the Cost evaluation points, an evaluation may also be made of:</p> <ol style="list-style-type: none"> <li>1. Reasonableness (i.e., does the proposed pricing accurately reflect the Proposer's effort to meet requirements and objectives?);</li> <li>2. Realism (i.e., is the proposed cost appropriate to the nature of the products and services to be provided?); and</li> <li>3. Affordability (i.e., the ability of the District to finance this project).</li> </ol> <p>Consideration of price in terms of overall affordability may be controlling in circumstances where two or more RFP responses are otherwise judged to be equal, or when a superior RFP response is at a price that the District cannot afford.</p>
<b>C.</b>	<p><b>Implementation Plan and Schedule:</b></p> <p>An evaluation will be made of the likelihood that the Proposer's implementation plan and schedule will meet the District's schedule.</p>
<b>D.</b>	<p><b>Relevant Experience:</b></p> <p>RFP responses will be evaluated against the RFP specifications and the questions below:</p>

	<ol style="list-style-type: none"> <li>1. Do the individuals assigned to the project have experience on similar projects?</li> <li>2. Are résumés complete and do they demonstrate backgrounds that would be desirable for individuals engaged in the work the project requires?</li> </ol>
<b>E.</b>	<b>References (See Exhibit A – RFP Response Packet):</b> The references will be evaluated for consistency with the RFP specifications.
<b>F.</b>	<b>Understanding of the Project:</b> RFP responses will be evaluated against the RFP specifications and the questions below: <ol style="list-style-type: none"> <li>1. Has the Proposer demonstrated a thorough understanding of the purpose and scope of the project?</li> <li>2. How well has the Proposer identified pertinent issues and potential problems related to the project?</li> <li>3. Has the Proposer demonstrated that it understands the deliverables the District expects it to provide?</li> <li>4. Has the Proposer demonstrated that it understands the District’s time schedule and can meet it?</li> </ol>
<b>G.</b>	<b>Contract Equity Program:</b> Proposer shall be eligible for SBE or DVBE preference points if they are a certified small business entity, as described in the guidelines contained in Exhibit A-Contract Equity Program, <u>and</u> they check the appropriate box, requesting preference, in Exhibit A-Proposer Information and Acceptance. Qualified DVBEs and/or SBEs will receive an additional 5 points to their total score.

**C. PRICING**

1. Prices quoted shall be firm for the first 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.

**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 workdays after the District issues the Notice of Intent to Award. The District will reject the protest as untimely if it is received after this specified time frame. Protests will be accepted from Proposers or potential Proposers only.

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

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

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

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

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

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

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

E. INVOICING

1. Following the Districts acceptance of product(s) meeting all specified requirements, and/or the complete and satisfactory performance of services, the District will render payment within 30 days of receipt of a correct invoice.
2. The District will notify the General or Professional Service Provider of any invoice adjustments required.
3. Invoices shall contain, at a minimum, District purchase order number, invoice number, remit to address, and itemized services description.
4. The District will pay General or Professional Service Provider in an amount not to exceed the negotiated amount(s) which will be referenced in the agreement signed by both parties.

IV. RFP RESPONSE SUBMITTAL INSTRUCTIONS AND INFORMATION

A. DISTRICT CONTACTS

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

FOR INFORMATION REGARDING TECHNICAL SPECIFICATIONS:

Attn: Amanda Lee, Assistant Engineer  
EBMUD-Pipeline Rebuild  
E-Mail: amanda.lee@ebmud.com  
PHONE: (510) 287-1878

FOR INFORMATION ON THE CONTRACT EQUITY PROGRAM:

Attn: Contract Equity Office  
PHONE: (510) 287-0114

AFTER AWARD:

Attn: Amanda Lee, Assistant Engineer

EBMUD-Pipeline Rebuild

E-Mail: amanda.lee@ebmud.com

PHONE: (510) 287-1878

B. SUBMITTAL OF RFP RESPONSE

1. At this time, no hardcopy proposals will be accepted. Upload your RFP response in pdf format and prior to the bid due date/time RFP submittals, in their entirety, shall be emailed to amanda.lee@ebmud.com. The District's email has limitations on attachment size. Make sure your response is less than 25 megabytes. If the file exceeds the limit, you will need to send multiple emails. Proposers are solely responsible for ensuring timely delivery of the proposals. The District shall not be responsible for any issues related to transfer of files through email. You may call at (510) 287-1878 to check receipt of the proposal.
2. All costs required for the preparation and submission of an RFP response shall be borne by the Proposer.
3. California Government Code Section 4552: In submitting an RFP response to a public purchasing body, the Proposer offers and agrees that if the RFP response is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the Proposer for sale to the purchasing body pursuant to the RFP response. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the Proposer.
4. Proposer expressly acknowledges that it is aware that if a false claim is knowingly submitted (as the terms "claim" and "knowingly" are defined in the California False Claims Act, Cal. Gov. Code, §12650 et seq.), the District will be entitled to civil remedies set forth in the California False Claim Act.
5. The RFP response shall remain open to acceptance and is irrevocable for a period of one hundred eighty (180) days, unless otherwise specified in the RFP documents.
6. It is understood that the District reserves the right to reject any or all RFP responses.

C. RESPONSE FORMAT

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





# EXHIBIT A

## RFP RESPONSE PACKET

**RFP For – Water Distribution Pipeline Replacement Prioritization Software #535-25-01**

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

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

### RFP RESPONSE PACKET GUIDELINES

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



## PROPOSER INFORMATION AND ACCEPTANCE

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

Addendum #	Date

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

and shall include an insurance certificate which meets the minimum insurance requirements, as stated in the RFP.

9. The undersigned acknowledges that RFP responses, in whole or in part, are NOT to be marked confidential or proprietary. The District may refuse to consider any RFP response or part thereof so marked. RFP responses submitted in response to this RFP may be subject to public disclosure. The District shall not be liable in any way for disclosure of any such records.
10. The undersigned Proposer hereby submits this RFP response and binds itself to the District. The RFP, subsequent Addenda, Proposers Response Packet, and any attachments, shall be used to form the basis of a Contract, which once executed shall take precedence.
11. The undersigned acknowledges **ONE** of the following (please check only one box)\*:
- ☐ Proposer is not an SBE nor a DVBE and is ineligible for any Proposal preference; **OR**
- ☐ Proposer is an SBE or DVBE as described in the Contract Equity Program (CEP) and Equal Employment Opportunity (EEO) Guidelines, and has completed the CEP and EEO forms at the hyperlink contained in the CEP and EEO section of this Exhibit A.

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

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

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

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

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

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

Type of Entity / Organizational Structure (check one):

☐ Corporation

☐ Joint Venture

☐ Limited Liability Partnership

☐ Partnership

☐ Limited Liability Corporation

☐ Non-Profit / Church

☐ Other: \_\_\_\_\_

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

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

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

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

Primary Contact Information:

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

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

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

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

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

Does Proposer or any employee/representative/service provider have any relatives currently employed with EBMUD? (This does not impact award of a qualified proposal; required reporting purposes only.)

☐ YES ☐ NO

If so, please list :

PROPOSER OR PROPOSER EMPLOYEE FIRST AND LAST NAME	DISTRICT EMPLOYEE FIRST AND LAST NAME	RELATIONSHIP

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

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

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



## PROPOSAL FORM

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

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

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

Description	Cost
Task 1: Proof of Concept	\$
<b>Contract Year 1</b>	
Task 2: Installation, Training, and Support	\$
Task 3: Perform Risk Calculations	
<i>Data Cleaning and Processing</i>	\$
<i>Risk Score Calculations</i>	\$
Task 4: Maintenance and Upgrades	\$
<b>Subtotal Year 1</b>	<b>\$</b>
<b>Optional Contract Year 2</b>	
Tasks 2 through 4:	\$
<b>Subtotal Year 2</b>	<b>\$</b>
<b>Optional Contract Year 3</b>	
Tasks 2 through 4:	\$
<b>Subtotal Year 3</b>	<b>\$</b>
<b>Total (Years 1 through 3)</b>	<b>\$</b>



## REQUIRED DOCUMENTATION AND SUBMITTALS

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

1. **Letter of Transmittal:** RFP response shall include a description of the Proposer's capabilities and approach in providing its services to the District, and provide a brief synopsis of the highlights of the RFP response and overall benefits to the District. This synopsis should not exceed three (3) pages in length and should be easily understood.
2. **Key Personnel:** RFP response shall include a complete list of all key personnel associated with the RFP. This list must include all key personnel who will provide services/training to District staff and all key personnel who will provide maintenance and support services. For each person on the list, the following information shall be included:
  - (a) The person's relationship with the Proposer, including job title and years of employment with the Proposer;
  - (b) The role that the person will play in connection with the RFP;
  - (c) The person's telephone number, fax number, and e-mail address;
  - (d) The person's educational background; and
  - (e) The person's relevant experience, certifications, and/or merits
3. **Description of the Proposed System:** RFP response shall include a description of the proposed system, as it will be finally configured during the term of the contract. The description shall specify how the proposed system will meet or exceed the requirements of the District and shall explain any advantages that this proposed system would have over other possible systems. The description shall include any disadvantages or limitations that the District should be aware of in evaluating the RFP response. Finally, the description shall describe all product warranties provided by the Proposer.
4. **Description of the Proposed Services:** RFP response shall include a description of the terms and conditions of services to be provided during the contract term including response times. The description shall contain a basis of estimate for services including its scheduled start and completion dates, the number of Proposer's and District personnel involved, and the number of hours scheduled for each person. Finally, the description must: (1) specify how the services in the RFP response will meet or exceed the requirements of the District; (2) explain any special resources or approaches that make the services of the Proposer particularly advantageous to the District; and (3) identify any limitations or restrictions of the Proposer in providing the services that the District should be aware of in evaluating its RFP response to this RFP.

5. **Implementation Plan and Schedule:** The RFP response shall include an implementation plan and schedule. The plan for implementing the proposed system and services shall include an Acceptance Test Plan. In addition, the plan shall include a detailed schedule indicating how the Proposer will ensure adherence to the timetables for the final system and/or services.
6. **Sustainability Statement:** PROPOSERS shall submit a statement regarding any sustainable, environmental or socially responsible initiatives or practices that they or their suppliers engage in. This information can be in relation to the specific services or work products solicited via this RFP, or in relation to the manufacture, delivery, or business practices of your firm.
7. **References**
- (a) Proposers must use the templates in the “References” section of this Exhibit A – RFP Response Packet to provide references.
  - (b) References should have similar scope, volume, and requirements to those outlined in these specifications, terms, and conditions.
    - Proposers must verify the contact information for all references provided is current and valid.
    - Proposers are strongly encouraged to notify all references that the District may be contacting them to obtain a reference.
  - (c) The District may contact some or all of the references provided in order to determine Proposer’s performance record on work similar to that described in this RFP. The District reserves the right to contact references other than those provided in the RFP response and to use the information gained from them in the evaluation process.
8. **Exceptions, Clarifications, Amendments:**
- (a) The RFP response shall include a separate section calling out all clarifications, exceptions, and amendments, if any, to the RFP and associated RFP documents, which shall be submitted with the Proposer’s RFP response using the template in the “Exceptions, Clarifications, Amendments” section of this Exhibit A – RFP Response Packet.
  - (b) **THE DISTRICT IS UNDER NO OBLIGATION TO ACCEPT ANY EXCEPTIONS, AND SUCH EXCEPTIONS MAY BE A BASIS FOR RFP RESPONSE DISQUALIFICATION.**
9. **Contract Equity Program:**
- (a) Every Proposer must fill out, sign, and submit the appropriate sections of the Contract Equity Program and Equal Employment Opportunity documents located at the hyperlink contained in the last page of this Exhibit A. Special attention should be given to completing Form P-25, "Employment Data and Certification". Any Proposer needing assistance in completing these forms should contact the District's Contract Equity Office at (510) 287-0114 prior to submitting an RFP response.



## REFERENCES

### Water Distribution Pipeline Replacement Prioritization Software RFP #535-25-01

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

**Proposer must provide a minimum of 4 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

### Water Distribution Pipeline Replacement Prioritization Software RFP #535-25-01

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 PROPOSERS and their subPROPOSERS 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.

**PROPOSER and its subPROPOSERS 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 PROPOSERS and subPROPOSERS 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 PROPOSERS shall include the nondiscrimination provisions above in all subcontracts.

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

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

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

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

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



## **EXHIBIT B INSURANCE REQUIREMENTS**

### **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, PROPOSER shall, at its sole cost and expense, maintain insurance in conformance with the requirements set forth below.

B. PROPOSER 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 PROPOSER, or by an officer of the PROPOSER (Officer), or by the PROPOSER's risk manager (Risk Manager). The Notice to Proceed shall not be issued, and PROPOSER 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. PROPOSER shall carry and maintain the minimum insurance requirements as defined in this Agreement. PROPOSER 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 PROPOSER of any of the insurance requirements, nor decrease liability of PROPOSER.

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 PROPOSER'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, PROPOSER shall provide documentation of its financial ability to pay the deductible, self-insurance, or SIR.

I. PROPOSER is responsible for the payment of any deductibles or SIRs pertaining to the policies required under this Agreement. In the event PROPOSER is unable to pay the required SIR, PROPOSER 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. PROPOSER 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, PROPOSER 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, PROPOSER 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 PROPOSER'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 PROPOSER 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. PROPOSER agrees to provide immediate Notice to the DISTRICT of any loss or claim against PROPOSER 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 PROPOSER to ensure all PROPOSERs/subcontractors performing services under this Agreement maintain the necessary coverages and limits. PROPOSER shall ensure that all contractors/subcontractors agree to the same indemnity obligation that PROPOSER agrees to in this Agreement based on the nature and scope of services being performed by each contractor/subcontractor. PROPOSER 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 PROPOSER under this Agreement. Failure or inability to secure fully adequate insurance shall in no way relieve the PROPOSER 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. PROPOSER 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 PROPOSER'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 PROPOSER, should PROPOSER 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 PROPOSER, 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 PROPOSER is exempt from carrying Workers' Compensation Insurance, PROPOSER must return the completed Verification of Insurance confirming that PROPOSER has no employees and is exempt from the State of California Workers' Compensation requirements.

D. If PROPOSER is self-insured with respect to Workers' Compensation coverage, PROPOSER 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 PROPOSER 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. PROPOSER 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 PROPOSER'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 PROPOSER is exempt from the State of California's requirement to carry Workers' Compensation insurance.

As the PROPOSER's Insurance Broker/Agent, Officer, or Risk Manager, I hereby verify that I have reviewed and confirmed that the PROPOSER 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. PROPOSER’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 PROPOSER.

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 PROPOSER 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 PROPOSER’s behalf.

H. Contractual liability coverage shall be included and shall not limit, by any modification or endorsement, coverage for liabilities assumed by PROPOSER 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 PROPOSER 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. PROPOSER 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 PROPOSER’s failure to provide the waiver of subrogation from its insurance carrier(s).

J. Independent PROPOSER’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 PROPOSER, 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 PROPOSER'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 PROPOSER'S Insurance Broker/Agent, Officer, or Risk Manager, I hereby verify that I have reviewed and confirmed that the PROPOSER 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. PROPOSER'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 PROPOSER.

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 PROPOSER 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 PROPOSER’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 PROPOSER’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 PROPOSER’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 PROPOSER’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 PROPOSER’S Insurance Broker/Agent, Officer, or Risk Manager, I hereby verify that I have reviewed and confirmed that the PROPOSER 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. Cyber Liability Insurance Coverage**

A. PROPOSER'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 PROPOSER.

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

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

Aggregate Limit: \$2,000,000

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

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

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

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

### **Verification of Cyber Liability Insurance Coverage**

**As the PROPOSER'S Insurance Broker/Agent, Officer, or Risk Manager, I hereby verify that I have reviewed and confirmed that the PROPOSER carries Cyber 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. Technology Errors and Omissions Liability Insurance Coverage**

- A. PROPOSER'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 PROPOSER.
- C. Minimum Requirements: Technology Errors and Omissions Liability Insurance with minimum limits as follows:
  - Each Claim or Occurrence Limit: \$2,000,000
  - Aggregate Limit: \$2,000,000
- D. If Coverage is written on a claims-made form, the following shall apply:
  - 1. The retroactive date must be shown, and must be before the date of the Agreement or the beginning of the Services.
  - 2. Insurance must be maintained and evidence of insurance must be provided for a minimum of three

(3) years after completion of the Services.

3. If claims-made coverage is canceled or non-renewed, and not replaced with another claims-made policies form with a retroactive date prior to the effective date of the Agreement, PROPOSER must purchase an extended reporting for a minimum of three (3) years after completion of the Services

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

1. Theft, dissemination and/or use of confidential or personally identifiable information (PII), including breach response costs, credit monitoring and regulatory fines and penalties from such theft, dissemination or use of the confidential information;
2. Network security liability arising from the unauthorized use of access to, or tampering with computer systems;
3. Liability arising from the failure of technology products (software) required under the contract for PROPOSER to properly perform the services intended;
4. Electronic Media Liability arising from personal injury, plagiarism or misappropriation of ideas, domain name infringement or improper deep-linking or framing, and infringement or violation of intellectual property rights;
5. Liability arising from the failure to render professional services.

**Verification of Technology Errors & Omissions Liability Insurance Coverage**

**As the PROPOSER'S Insurance Broker/Agent, Officer, or Risk Manager, I hereby verify that I have reviewed and confirmed that the PROPOSER carries Technology Errors & Omissions 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. PROPOSER'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 PROPOSER.

D. Minimum Requirements: It is expressly understood by the parties that PROPOSER'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 PROPOSER/subPROPOSER on PROPOSER's behalf.
4. Contractual liability coverage shall be included and shall not limit, by any modification or endorsement, coverage for liabilities assumed by PROPOSER under this Agreement as an "insured contract."
5. Independent PROPOSER'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 PROPOSER, 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 PROPOSER'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. PROPOSER 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 PROPOSER 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 PROPOSER'S Insurance Broker/Agent, Officer, or Risk Manager, I hereby verify that I have reviewed and confirmed that the PROPOSER carries Excess and/or Umbrella Liability insurance, as required by this Agreement, including the relevant provisions applicable to all required insurance.**

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

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

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

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

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

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

\_\_\_\_\_

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

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

## **Exhibit C**

### **PROFESSIONAL SERVICES AGREEMENT**

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

***Water Distribution Pipeline Replacement Prioritization Software***

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 to develop a Software as a Service (SaaS) to analyze and prioritize the replacement of water distribution pipelines and appurtenances and rank all pipe segments based on Likelihood on Failure (LOF), Consequence of Failure (COF), and Total Risk or Business Risk Exposure (BRE).

WHEREAS, DISTRICT has submitted a proposal to provide consulting services for risk calculations and; CONSULTANT represents that it has the experience, licenses, qualifications, staff expertise and where necessary the required Department of Industrial Relations (“DIR”) registration to perform said services in a professional and competent manner; and

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

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

**ARTICLE 1 -SCOPE OF WORK**

- 1.1. CONSULTANT agrees to furnish services set forth in Exhibit A, Scope of Services, attached hereto and incorporated herein. The services authorized under this Agreement shall also include all reports, manuals, plans, and specifications as set forth in Exhibit A.
- 1.2. CONSULTANT 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.



- 1.3. 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.
- 1.4. CONSULTANT is an independent contractor and not an employee of DISTRICT. CONSULTANT expressly warrants that it will not represent that it is an employee or servant of DISTRICT.
- 1.5. 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.
- 1.6. 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.
- 1.7. 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.
- 1.8. 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 1.3 and 7.1.

## **ARTICLE 5 -PROJECT MANAGERS**

- 5.1. DISTRICT designates (*District Project Manager's name*) as its Project Manager, who shall be responsible for administering and interpreting the terms and conditions of this Agreement, for matters relating to CONSULTANT's performance under this Agreement, and for liaison and coordination between DISTRICT and CONSULTANT. CONSULTANT may be requested to assist in such coordinating activities as necessary as part of the services. In the event DISTRICT wishes to make a change in DISTRICT's representative, DISTRICT will notify CONSULTANT of the change in writing.
- 5.2. CONSULTANT designates (*CONSULTANT Project Manager's name*) as its Project Manager, who shall have immediate responsibility for the performance of the work and for all matters relating to performance under this Agreement. Any change in CONSULTANT'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, expense, claims, suits, and damages, including attorneys' fees, arising out of or resulting from CONSULTANT's, its associates', employees', subCONSULTANTS', or other agents' negligent acts, errors or omissions, or willful misconduct, in the operation and/or performance under this Agreement.

### **7.2. Insurance Requirements**

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

## **ARTICLE 8 - NOTICES**

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

*(consulting firm's name)*

*(address)*

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

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

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

Director of Engineering and Construction Department

P.O. Box 24055

Oakland, CA 94623-1055

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

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

## **ARTICLE 9 - MISCELLANEOUS**

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

- 9.4. Multiple copies of this Agreement may be executed by the parties and the parties agree that the Agreement on file at the DISTRICT is the version of the Agreement that shall take precedence should any differences exist among counterparts of the Agreement.
- 9.5. This Agreement and all matters relating to it shall be governed by the laws of the State of California.
- 9.6. 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: \_\_\_\_\_  
(Name),  
(title - *Director of Engineering and Construction*)

Date \_\_\_\_\_

Approved As To Form

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

**(CONSULTING FIRM'S NAME)**

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

Date \_\_\_\_\_



## EXHIBIT D

# IRAN CONTRACTING ACT CERTIFICATION

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

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

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

### CERTIFICATION FOR PARAGRAPH 1:

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

Firm: \_\_\_\_\_

By: \_\_\_\_\_ Date: \_\_\_\_\_  
(Signature of Bidder)

Title: \_\_\_\_\_

Signed at: \_\_\_\_\_ County, State of: \_\_\_\_\_

**OR**

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



## **EXHIBIT E INFORMATION TECHNOLOGY SECURITY INFORMATION TO BE EXCLUDED FROM PUBLIC RECORDS ACT REQUESTS**

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

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