



REQUEST FOR PROPOSAL (RFP)

for Risk Management Information System (RMIS)

ADDENDA

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

CONTACT

Raymond Lee, Project Manager
rmisreplacement@ebmud.com

RESPONSE DUE

July 14, 2025
4:00 p.m. PDT

SUBMIT ELECTRONICALLY TO*

Raymond Lee, EBMUD
rmisreplacement@ebmud.com

**Hardcopy proposals will not be accepted*

EAST BAY MUNICIPAL UTILITY DISTRICT
RFP for Risk Management Information System (RMIS)
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I. STATEMENT OF WORK

A. SCOPE

It is the intent of this Request for Proposal to solicit proposals from firms qualified to provide Risk Management Information System and implementation services for property damage and subrogation claims for the East Bay Municipal Utility District (the District).

The selected System shall provide a secure, cloud-based platform for tracking, analyzing, and reporting data related to first- and third-party Liability Claims, Incidents, Subrogation, and Site Inspections. The System must support internal Risk Management operations by improving workflow efficiency, data accessibility, and reporting quality, while meeting all IT security and support standards required by the District.

Workers' Compensation (WC) claims management is not within the scope of this solicitation. However, the District is interested in a scalable solution that may include an optional WC module in the future. As such, vendors are encouraged to indicate whether their system supports modular expansion for Workers' Compensation claim functionality, including integration with the District's third party administrator (currently Athens, using SIMS).

East Bay Municipal Utility District (District) intends to award a multi-year contract, with several two (2) year terms to the Proposer who best meets the District's requirements.

B. PROPOSER QUALIFICATIONS

1. Proposer, Proposer's principal, or Proposer's staff shall have been regularly engaged in the business of providing RMIS software solutions and implementation services for at least **5 years**.
2. Proposer shall be a certified or authorized manufacturer, dealer, or provider.
3. Proposer shall possess all permits, licenses, and professional credentials necessary to perform services as specified under this RFP.

C. FUNCTIONAL REQUIREMENTS

1. Liability Claims: The System shall provide tools to import, track, analyze, and report on liability claims data. The platform shall:
 - a. Import claims data on an agreed-upon schedule from SIMS or other systems used by the District's Liability TPA (currently Carl Warren and FHE)
 - b. Track claim details including type of incident, parties involved, investigation notes, and financials
 - c. Provide analysis by metrics set by the District, including but not limited to: root cause, location, department, incident type, and claim cost.
2. Incident Reporting: The System shall provide a platform for capturing and managing incident reports across District operations. The platform shall:

- a. Provide a user-friendly portal for incident entry (internal users only)
 - b. Allow classification by location, department, type, and other identifiers
 - c. Enable escalation to claims where appropriate
 - d. Provide analytical tools to identify trends, frequency, and contributing factors by customized metrics.
3. Subrogation: The System shall provide a module to manage subrogation efforts across relevant claims. The system shall:
 - a. Track subrogation files and follow-up actions
 - b. Record recovery efforts, communication history, and contact schedules
 - c. Generate reminder alerts and customizable templates for demand letters and notifications
 - d. Provide subrogation analysis including but not limited to: recovery rates, collection timelines, and recovered dollars by claim or department.
4. Reports and Dashboards: The System shall include a robust reporting engine that enables:
 - a. Generation of standard and custom reports using filters (e.g., date range, claim type, location)
 - b. Exporting of reports in common formats (e.g., Excel, PDF) for distribution and data manipulation
 - c. Scheduling of recurring reports for automated delivery on user-defined intervals.
 - d. Critical reports (below) shall be available:
 - a) Open Liability Claim Report (List of all open claims with financials)
 - b) Closed Liability Claim Report (List of all closed claims with financials)
 - c) Open Subrogation Claim Report (List of all open claims with financials)
 - d) Closed Subrogation Claim Report (List of all closed claims with financials)
 - e) Open Claims Assigned to Defense Counsel (List of all open claims with financials)
 - f) Litigated Claims Report (List of all open claims with financials)
 - g) Liability Claim Loss Run Report (All claims valued as of XX/XX/XXXX)
5. Implementation, Training, and Support: The Proposer shall provide full implementation, onboarding, and support services, including:
 - a. A dedicated project manager and technical team to manage deployment and data migration from the District's legacy claims system (MicroNiche)
 - b. Integration assistance with the District's internal systems and those used by TPAs (e.g., FHE)
 - c. Live training sessions (virtual) for District staff
 - d. Comprehensive user guides and reference documentation
 - e. Annual support for ongoing troubleshooting, configuration, or user assistance.

D. TECHNICAL REQUIREMENTS

The System being acquired must be compatible with the District's current desktop, laptop, or tablet computing environment. Workstations are currently running Windows 10 and Office 365. Microsoft Edge and Chrome are the standard Web browser. The District uses SharePoint for document collaboration and sharing. The District is interested in vendors who can help optimize the document repository using existing systems, or by providing built-in and flexible document

management capabilities. The District may require the new software to integrate with 3rd party applications and to easily receive and transmit data to local, state, and federal agencies. Integration tools must be open and support a Microsoft Windows platform, e.g., .NET, Service Oriented Architecture, XML, Web Services, APIs, etc. Prior experience with integrating custom and 3rd party applications is important.

Additional Technical Requirements

1. **Software as a Service (SaaS):** System shall be provided using a SaaS hosting model. Other than software licenses for System, Proposer shall not require District to purchase, install, or host any hardware or software components of System.
2. **Single-sign on:** System shall support SSO using OAuth 2.0 framework and District's Entra ID IdP; the use of SAML with District's Entra ID IdP would also be acceptable if System supports SAML Federation via XML Metadata URLs. System shall use District's SSO only to authenticate users and not to authorize users. System shall provide separate functionality for user authorization.
3. **User management:** System shall utilize best practices in user management including least privilege, role-based access, login timeouts, etc. System shall provide District with functionality to add, delete, and modify security roles and associated security permissions. System shall provide District with functionality to assign security roles to users. Expected user community numbers and roles:
 - a. Users – 7
 - b. Power Users - 3
 - c. Administrators – 2
4. **Audit trail and logging:** System shall provide logging functionality consistent with industry best practices to allow District to establish a legally defensible audit trail of System activities.
5. **Test environment:** Proposer shall provide a test environment for District's use in testing System functionality, integrations, configurations, patches, newer releases, etc. Activities performed in this test environment shall not in any way affect System's production environment.
6. **Data encryption:** System shall encrypt data in transit and at rest using industry standard protocols and ciphers such as TLS 1.3 and AES-256.
7. **Data backup:** System shall implement a comprehensive data backup strategy including incremental and full backups, encryption, offsite storage, automation to the fullest extent, etc. System shall provide an RTO of 12 hours or less and an RPO of 5 minutes or less.
8. **Data (specifics):** System shall be able to store work order identifiers to match field work activities to claims.
9. **System uptime:** System shall maintain a minimum of 99.99% uptime per month during District's business hours of 8am to 5pm Pacific Time. System maintenance shall occur outside of District's business hours.
10. **System change management:** Proposer shall notify District at least 10 business days in advance of minor System changes including software patches. Proposer shall notify District at least 30 business days in advance of major System changes including software releases. Proposer shall perform thorough testing prior to deploying any change and shall not deploy any change that would break functionality used by District. A business day is defined as a calendar day that is not a Saturday, Sunday, or District holiday.

11. **Data migration:** Proposer shall perform migration of District's data from the existing MicroNiche application to System. Proposer shall provide all labor, tools, and validation methods required to perform data migration.
12. **Integration with 3rd party applications:** System shall provide mechanisms for integration with other applications including tools for data export and import.
 - a. Import: System shall be able to import (ingest) data from our existing MicroNiche application in CSV file format.
 - b. Export: System shall be able to export, at a minimum, claims ID's, claims cost data, and work order identifiers. System shall be able to automate data extract process. Data exports shall be in .csv format.
 - c. Export for Paying Claimants – to Oracle Cloud Fusion Payables One-Time Payment Requests in csv format
 - d. Export Vendor Payment Information – to Oracle Cloud Fusion Payables against existing Oracle Cloud Fusion Purchase Orders to allow for vendor payment processing using .csv file format.
 - e. Import: System shall be able to import (ingest), using .csv file format, Purchase Order data from the Oracle Cloud Fusion Procurement system.
13. **Integration with Microsoft 365 tools**, specifically the tools below:
 - a. SharePoint Online to allow linking, storing, and accessing documents directly,
 - b. Microsoft Outlook (including Outlook Calendar) for notifications and task assignments, to streamline communication and task follow-up,
 - c. Microsoft Teams for chat-based updates, alerts, or collaboration,
 - d. Microsoft Excel for data exports and analysis.

II. CALENDAR OF EVENTS

EVENT	DATE/LOCATION
Contact	Raymond Lee
Email Address	rmisreplacement@ebmud.com
Pre-Submittal Meeting	There is no Pre-Submittal Meeting
MANDATORY/OPTIONAL Site Tour	There is no Site Tour
RFP Submittal Electronic Mail	rmisreplacement@ebmud.com
Due Date for Questions and Clarifications	June 23, 2025, 4:00 PM (local time)
Due Date for Response to Questions/Clarifications	June 30, 2025
RFP Submittal Due Date & Time	July 14, 2025, no later than 4:00 PM (local time)
Short-List Interviews and Demonstrations	TBD

Note: All dates are subject to change by District.

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

III. DISTRICT PROCEDURES, TERMS, AND CONDITIONS

A. RFP ACCEPTANCE AND AWARD

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

B. EVALUATION CRITERIA/SELECTION COMMITTEE

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

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

RFP responses will be evaluated and scored according to the Evaluation Criteria below and scored accordingly. 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:

Minimum Submission Components

- Submission is clear and organized
- Implementation methodology documented
- Project schedule submitted
- Project team defined
- Training documented w/ varied delivery methods

Requirements

- Functional
 - Extent to which system meets or exceeds functional requirements.
- Usability
 - Visual cues and colors are consistent
 - Navigation is clear, intuitive, providing good feedback
 - Multiple help features available
 - Features available to personalize user experience
- Technical
 - Extent to which system meets or exceeds technical requirements.

Costs

- One-time
 - Implementation cost
 - Does consultant hour allocation look reasonable?
 - Are payment milestones clearly defined?
- Recurring
 - License costs
 - Managed support service costs
 - Discounts available?

References & Experience

- Years in this specific business
- Number of completed implementation projects
- Able to meet the project team?
- Reference feedback

Contract Equity Program

- Vendor eligibility

C. **PRICING**

PROPOSALS SHALL ADDRESS EACH ITEM LISTED BELOW. VENDOR SHALL STATE THE QUESTION/REQUEST FOLLOWED BY RESPONSE.

1. Provide a cost proposal that includes a summary of all fees, detailing services related to such fees. Include full disclosure of sub-contractor fees associated with the services to be provided.
 - Pricing structure should include information regarding number of licenses included within the basic program of services offered.
 - Pricing structure should include information regarding implementation services. District prefers a fixed-fee costs structure that includes all hours needed to fully design, configure, unit test, support District UAT, and train District staff.
2. If more than one pricing alternative is available, describe in detail each option.
3. Describe the costs of your services for network access and any other charges related to the provision of provider networks.
4. Describe the cost of any initial licenses and costs associated with any that may be needed after the commencement of the contract.
5. Describe and demonstrate the capabilities and cost savings of your program. Indicate which services are provided within your organization, and which services are provided by subcontractors.
 - If services are contracted out, disclose any commission and/or other type of compensation you receive from the subcontractors.
6. Include any anticipated pricing changes over the course of the contract term and if you offer any flat rate guarantee.
7. Will you provide complete online system access to reporters? If so, is this access included in the flat fee, or is there an additional charge? Please provide cost, if applicable.
8. Provide cost for system/software upgrades and maintenance (if any).

D. NOTICE OF INTENT TO AWARD AND PROTESTS

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

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

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

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

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

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

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

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

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

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

E. WARRANTY

1. Proposer expressly warrants that all goods and services to be furnished pursuant to any contract awarded it arising from the Proposal will conform to the descriptions and specifications contained herein and in supplier catalogs, product brochures, and other representations, depictions, or models, and will be free from defects, of merchantable quality, good material, and workmanship. Proposer expressly warrants that all goods and services to be furnished pursuant to such award will be fit and sufficient for the purpose(s) intended. This warranty shall survive any inspections, delivery, acceptance,

payment, or contract termination for any reason, by the District. Proposer warrants that all work and services furnished hereunder shall be guaranteed for the duration of the license agreement.

F. INVOICING

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

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: Raymond Lee – Sr. Software Engineer, Project Mgmt, PMI-ACP
EBMUD Information Systems Department
E-Mail: rmisreplacement@ebmud.com

FOR INFORMATION ON THE CONTRACT EQUITY PROGRAM:

Attn: Contract Equity Office
<https://www.ebmud.com/business-center/contract-equity-program>

AFTER AWARD:

Attn: Raymond Lee – Sr. Software Engineer, Project Mgmt, PMI-ACP
EBMUD Information Systems Department
E-Mail: rmisreplacement@ebmud.com

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 rmisreplacement@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 (510) 287-0413 to check receipt of the proposal.

2. All costs required for the preparation and submission of an RFP response shall be borne by the Proposer.
3. California Government Code Section 4552: In submitting an RFP response to a public purchasing body, the Proposer offers and agrees that if the RFP response is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2, commencing with Section 16700, of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the Proposer for sale to the purchasing body pursuant to the RFP response. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the Proposer.
4. Proposer expressly acknowledges that it is aware that if a false claim is knowingly submitted (as the terms "claim" and "knowingly" are defined in the California False Claims Act, Cal. Gov. Code, §12650 et seq.), the District will be entitled to civil remedies set forth in the California False Claim Act.
5. The RFP response shall remain open to acceptance and is irrevocable for a period of one hundred eighty (180) days, unless otherwise specified in the RFP documents.
6. It is understood that the District reserves the right to reject any or all RFP responses.

C. RESPONSE FORMAT

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



EXHIBIT A

RFP RESPONSE PACKET Risk Management Information System (RMIS)

To: The EAST BAY MUNICIPAL UTILITY District ("District")

From: _____
(Official Name of Proposer)

RFP RESPONSE PACKET GUIDELINES

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



PROPOSER INFORMATION AND ACCEPTANCE

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

Addendum #	Date

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

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

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

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

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

Street Address Line 1: _____

Street Address Line 2: _____

District: _____ 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: _____

District: _____ State: _____ Zip Code: _____

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

☐ YES ☐ NO

If so, please list :

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

SIGNATURE: _____

Name and Title of Signer (printed): _____

Dated this _____ day of _____ 20_____



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	Unit of Measure	Estimated Quantity	Unit Cost	Extended Cost
Senior Consultant	hour		\$	\$
Junior consultant	hour		\$	\$
TOTAL COST				\$



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 Equipment/System**: RFP response shall include a description of the proposed equipment/system, as it will be finally configured during the term of the contract. The description shall specify how the proposed equipment/system will meet or exceed the requirements of the District and shall explain any advantages that this proposed equipment/system would have over other possible equipment/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 equipment/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 equipment/system and/or services.

Evidence of Qualification Testing: RFP response provides evidence that the proposed equipment/system has successfully completed the qualification test standard requirements defined in this RFP. Evidence shall include a statement from contractor that system is configured as designed and has completed unit and system integration testing.

6. **Sustainability Statement:** Contractors shall submit a statement regarding any sustainable, environmental or socially responsible initiatives or practices that they or their suppliers engage in. This information can be in relation to the specific services or work products solicited via this RFP, or in relation to the manufacture, delivery, or business practices of your firm.

7. **References:** Proposers must use the templates in the “References” section of this Exhibit A – RFP Response Packet to provide references.

Provide a list of references with current contact person, e-mail address and phone number who may be contacted regarding firm performance.

The review team will conduct a background reference review of each respondent. Please include the following information for three (3) projects that the proposed consultant team worked on together:

- A. Name of the Project/Study
- B. Location of the Project
- C. Name, title, and contact information for the client.
- D. Project Budget
- E. Date of Completion of the Project

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.

10. **Preliminary Security Information Gathering (PSIG)**

- (a) Every proposer must fill out, sign, and submit the Preliminary Security Information Gathering (PSIG) documents, Exhibit G.



REFERENCES
RFP For – Risk Management Information System (RMIS)

Proposer Name: _____

Proposer must provide a minimum of 3 references.

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

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

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



EXCEPTIONS, CLARIFICATIONS, AMENDMENTS
RFP For – Risk Management Information System (RMIS)

Proposer Name:_____

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

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

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

*Print additional pages as necessary



CONTRACT EQUITY PROGRAM & EQUAL EMPLOYMENT OPPORTUNITY

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

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

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

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

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

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

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

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

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



EXHIBIT B

INSURANCE REQUIREMENTS

CONTRACTOR/COMPANY NAME: _____

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

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

The following provisions are applicable to all required insurance:

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

to obtain any updated Verification of Insurance under this Agreement shall not in any way be construed to be a waiver of any right or remedy of the DISTRICT, in this or any regard.

- F. The insurance required hereunder may be obtained by a combination of primary, excess and/or umbrella insurance, and all coverages shall be at least as broad as the requirements listed in this Agreement.
- G. Any deductibles, self-insurance, or self-insured retentions (SIRs) applicable to the required insurance coverage must be declared to and accepted by the DISTRICT.
- H. At the option and request of the DISTRICT, CONTRACTOR shall provide documentation of its financial ability to pay the deductible, self-insurance, or SIR.
- I. CONTRACTOR is responsible for the payment of any deductibles or SIRs pertaining to the policies required under this Agreement. In the event CONTRACTOR is unable to pay the required SIR, CONTRACTOR agrees that such SIR may be satisfied, in whole or in part, by the DISTRICT as the additional insured at the DISTRICT's sole and absolute discretion, unless to do so would terminate or void the policy(ies).
- J. Unless otherwise accepted by the DISTRICT, all required insurance must be placed with insurers with a current A.M. Best's rating of no less than A- V.
- K. CONTRACTOR shall defend the DISTRICT and pay any damages as a result of failure to provide the waiver of subrogation from the insurance carrier required by this Agreement.
- L. For any coverage that is provided on a claims-made coverage form (which type of form is permitted only where specified), the retroactive date must be shown, must be before the date of this Agreement, and must be before the beginning of any Services related to this Agreement.
- M. For all claims-made policies the updated Verification of Insurance must be provided to the DISTRICT for at least three (3) years after expiration or termination of this Agreement.
- N. If claims-made coverage is canceled or is non-renewed and if the claims-made coverage is not replaced with another claims-made policy form with a retroactive date prior to the effective date of this Agreement and prior to the start of any Services related to this Agreement, CONTRACTOR must purchase an extended reporting period for a minimum of three (3) years after expiration or termination of the Agreement.
- O. In the event of a claim or suit, and upon request by the DISTRICT, CONTRACTOR agrees to provide a copy of the pertinent policy(ies) within 10 days of such request to the DISTRICT for review. Any actual or alleged failure on the part of the DISTRICT to request a copy of the pertinent policy(ies) shall not in any way be construed to be a waiver of any right or remedy of the DISTRICT, in this or any regard. Additionally, the DISTRICT may, at any time during CONTRACTOR's performance under this Agreement, request a copy of the Declarations pages and Schedule of Forms and Endorsements of any policy required to be maintained by CONTRACTOR hereunder, whether or not a suit or claim has been filed. Premium details may be redacted from any such documents requested.

- P. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained herein.
- Q. Where additional insured coverage is required, the additional insured coverage shall be primary and non-contributory and will not seek contribution from the DISTRICT's insurance or self-insurance.
- R. CONTRACTOR agrees to provide immediate Notice to the DISTRICT of any loss or claim against CONTRACTOR arising out of, pertaining to, or in any way relating to this Agreement or to Services performed under this Agreement. The DISTRICT assumes no obligation or liability by such Notice but has the right (but not the duty) to monitor the handling of any such claim(s) if the claim(s) is likely to involve the DISTRICT.
- S. It is the obligation of the CONTRACTOR to ensure all contractors/subcontractors performing services under this Agreement maintain the necessary coverages and limits. CONTRACTOR shall ensure that all contractors/subcontractors agree to the same indemnity obligation that CONTRACTOR agrees to in this Agreement based on the nature and scope of services being performed by each contractor/subcontractor. CONTRACTOR shall require that each contractor/subcontractor include the DISTRICT, its directors, officers, and employees as additional insureds on its liability policy(ies) (excepting Professional Liability and Workers' Compensation) for all ongoing and completed operations with coverage as broad as required of CONTRACTOR under this Agreement. Failure or inability to secure fully adequate insurance shall in no way relieve the CONTRACTOR or all contractors/subcontractors of the responsibility for its own acts or the acts of any contractors/subcontractors or any employees or agents of either. All contractors/subcontractors are to waive subrogation against the DISTRICT on all policies. CONTRACTOR shall be responsible for maintaining records evidencing contractors'/subcontractors' compliance with the necessary insurance coverages and limits, and such records shall be made available to the DISTRICT within 10 days upon request.
- T. It is CONTRACTOR's responsibility to ensure its compliance with the insurance requirements. Any actual or alleged failure on the part of the DISTRICT to obtain proof of insurance required under this Agreement shall not in any way be construed to be a waiver of any right or remedy of the DISTRICT, in this or any regard.
- U. Notice of Cancellation/Non-Renewal/Material Reduction. The insurance requirements hereunder are mandatory, and the DISTRICT may, at its sole and absolute discretion, terminate the services provided by CONTRACTOR, should CONTRACTOR breach its obligations to maintain the required coverage and limits set forth in this Agreement. No coverage required hereunder shall be cancelled, non-renewed or materially reduced in coverage or limits without the DISTRICT being provided at least thirty (30) days prior written notice, other than cancellation for the non-payment of premiums, in which event the DISTRICT shall be provided ten (10) days prior written notice. Replacement of coverage with another policy or insurer, without any lapse in coverage or any reduction of the stated requirements does not require notice beyond submission to the DISTRICT of an updated Verification of Insurance which shall be met by having the Insurance Broker/ Agent, or Officer, or Risk Manager update, sign and return the Insurance Requirements.

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

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

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

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

As the CONTRACTOR's Insurance Broker/Agent, Officer, or Risk Manager, I hereby verify that I have reviewed and confirmed that the CONTRACTOR carries Workers' Compensation insurance as required by this Agreement, including the relevant provisions applicable to all required insurance.

Self-Insured Retention: Amount: \$ _____

Policy Limit: \$ _____

Policy Number: _____

Policy Period: from _____ to _____

Insurance Carrier Name: _____

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

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

II. Commercial General Liability Insurance ("CGL") Coverage

- A. CONTRACTOR's insurance shall be primary, and any insurance or self-insurance procured or maintained by the DISTRICT shall not be required to contribute to it.
- B. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policies or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the CONTRACTOR.
- C. Minimum Requirements. CGL insurance with minimum per occurrence and aggregate limits as follows:

Bodily Injury and Property Damage	\$2,000,000 per occurrence & aggregate
Personal Injury/Advertising Injury	\$2,000,000 per occurrence & aggregate
Products/Completed Operations	\$2,000,000 per occurrence & aggregate
- D. Coverage must be on an occurrence basis and be as broad as Insurance Services Office (ISO) form CG 00 01.
- E. Coverage for Products, and Completed Operations, and Ongoing Operations must be included in the insurance policies and shall not contain any "prior work" coverage limitation or exclusion applicable to any Services performed by CONTRACTOR and/or contractor/subcontractor under this Agreement.
- F. There will be no exclusion for explosions, collapse, or underground liability (XCU).
- G. Insurance policies and Additional Insured Endorsement(s) shall not exclude liability and damages to work arising out of, pertaining to, or in any way relating to services performed by contractor/subcontractor on CONTRACTOR's behalf.
- H. Contractual liability coverage shall be included and shall not limit, by any modification or endorsement, coverage for liabilities assumed by CONTRACTOR under this Agreement as an "insured contract."
- I. Waiver of Subrogation. The policy shall be endorsed to include a Waiver of Subrogation ensuring that the CONTRACTOR and its insurer(s) waive any rights of recovery by subrogation, or otherwise, against the DISTRICT, its directors, board, and committee members, officers, officials,

agents, volunteers, and employees. CONTRACTOR shall defend and pay any and all damages, fees, and costs, of any kind, arising out of, pertaining to, or in any way resulting from CONTRACTOR's failure to provide the waiver of subrogation from its insurance carrier(s).

- J. Independent Contractor's Liability shall not limit coverage for liability and/or damages arising out of, pertaining to, or in any way resulting from Services provided under this Agreement.
- K. To the fullest extent permitted by law, the DISTRICT, its directors, board, and committee members, officers, officials, employees, agents, and volunteers must be covered as Additional Insureds on a primary and noncontributory basis on all underlying, excess and umbrella policies that shall be evidenced in each case by an endorsement. Coverage for the Additional Insureds must be as broad as ISO forms CG 20 10 (ongoing operations) and CG 20 37 (completed operations) for liability arising in whole, or in part, from work performed by or on behalf of CONTRACTOR, or in any way related to Services performed under this Agreement.
- L. A severability of interest provision must apply for all the Additional Insureds, ensuring that CONTRACTOR's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the policies' limit(s).

Verification of Commercial General Liability (CGL) Insurance Coverage

As the CONTRACTOR'S Insurance Broker/Agent, Officer, or Risk Manager, I hereby verify that I have reviewed and confirmed that the CONTRACTOR carries Commercial General Liability insurance, as required by this Agreement, including the relevant provisions applicable to all required insurance:

Self-Insured Retention: Amount: \$ _____

Policy Limit: \$ _____

Policy Number: _____

Policy Period: from _____ **to** _____

Insurance Carrier Name: _____

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

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

III. Business Auto Liability Insurance Coverage

- A. CONTRACTOR's insurance shall be primary, and any insurance or self-insurance procured or maintained by the DISTRICT shall not be required to contribute to it.
- B. The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of coverage of any insurance policies or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that

includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of the CONTRACTOR.

- C. Minimum Requirements. Auto insurance with minimum coverage and limits as follows:
- | | |
|--|-------------|
| Each Occurrence Limit (per accident) and in the Aggregate: | \$2,000,000 |
| Bodily Injury and Property Damage: | \$2,000,000 |
- D. Coverage must include either “owned, non-owned, and hired” autos or “any” automobile. This provision ensures the policy covers losses arising out of use of company-owned vehicles (“owned autos”), employee’s personal autos (“non-owned autos” meaning not owned by company/insured) or autos that are rented or leased (“hired autos”).
- E. If CONTRACTOR is transporting hazardous materials or contaminants, evidence of the Motor Carrier Act Endorsement-hazardous materials clean-up (MCS-90, or its equivalent) must be provided.
- F. If CONTRACTOR’s Scope of Services under this Agreement exposes a potential pollution liability risk related to transport of potential pollutants, seepage, release, escape or discharge of any nature (threatened or actual) of pollutants into the environment arising out of, pertaining to, or in any way related to CONTRACTOR’s and/or contractor’s/subcontractor’s performance under this Agreement, then Auto Liability Insurance policies must be endorsed to include Transportation Pollution Liability insurance. Alternatively, coverage may be provided under the CONTRACTOR’s Pollution Liability Policies if such policy has no exclusions that would restrict coverage under this Agreement. Coverage shall also include leakage of fuel or other “pollutants” needed for the normal functioning of covered autos.
- G. To the fullest extent permitted by law, the DISTRICT, its directors, board, and committee members, officers, officials, employees, agents, and volunteers must be covered as Additional Insureds on a primary and noncontributory basis on all underlying and excess and umbrella policies.
- H. A severability of interest provision must apply for all the Additional Insureds, ensuring that CONTRACTOR’s insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the insurer’s limits of liability.

Verification of Business Auto Liability Insurance Coverage

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

Self-Insured Retention: Amount: \$_____

Policy Limit: \$_____

Policy Number: _____

Policy Period: from _____ **to** _____

Insurance Carrier Name: _____

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

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

IV. Cyber Liability Insurance Coverage

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

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

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

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

Aggregate Limit: \$2,000,000

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

1. The retroactive date must be shown, and must be before the date of the Agreement or the beginning of the Services.
2. Insurance must be maintained and evidence of insurance must be provided for a minimum of three (3) years after completion of the Services.
3. If claims-made coverage is canceled or non-renewed, and not replaced with another claims-made policies form with a retroactive date prior to the effective date of the Agreement, CONTRACTOR must purchase an extended 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 CONTRACTOR'S Insurance Broker/Agent, Officer, or Risk Manager, I hereby verify that I have reviewed and confirmed that the CONTRACTOR carries Cyber Liability insurance, as required by this Agreement, including the relevant provisions applicable to all required insurance:

Self-Insured 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. Technology Errors and Omissions Liability Insurance Coverage

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

policies form with a retroactive date prior to the effective date of the Agreement, CONTRACTOR must purchase an extended 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 Contractor to properly perform the services intended;
4. Electronic Media Liability arising from personal injury, plagiarism or misappropriation of ideas, domain name infringement or improper deep-linking or framing, and infringement or violation of intellectual property rights;
5. Liability arising from the failure to render professional services.

Verification of Technology Errors & Omissions Liability Insurance Coverage

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

Self-Insured Retention: Amount: \$ _____

Policy Limit: \$ _____

Policy Number: _____

Policy Period: from _____ **to** _____

Insurance Carrier Name: _____

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

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

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

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

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

Verification of Excess and/or Umbrella Liability Insurance Coverage

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

Excess/Umbrella Limits: Amount \$ _____

Policy Limit: \$ _____

Policy Number: _____

Policy Period from _____ to _____

Insurance Carrier Name: _____

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

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

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

EXHIBIT C

IT SERVICES AGREEMENT

**INFORMATION TECHNOLOGY SERVICES AGREEMENT
BETWEEN
THE EAST BAY MUNICIPAL UTILITY DISTRICT
AND
[CONTRACTOR]**

This Information Technology Services Agreement (“Agreement”), effective as of [DATE] (the “Effective Date”), is by and between the East Bay Municipal Utility District (“District”), a public entity, and [Contractor Name], a [State of Organization] [Entity Type] (“Contractor”). The District and Contractor may be referred to herein collectively as the “Parties” or individually as a “Party.”

RECITALS

1. The District requires *provide Risk Management Information System and implementation services*, defined as the “Services” below.
2. Contractor has submitted a proposal to provide the Services and Contractor represents that it has the experience, licenses, qualifications, staff and expertise to provide the Services in a professional and competent manner.
3. The District’s Board of Directors has authorized this Agreement by Motion Number _____.
4. In consideration of the mutual covenants, terms, and conditions set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

It is agreed that the District retains Contractor to provide the Services, and Contractor accepts this engagement based on the requirements described in this Agreement and the following Exhibits, all of which are incorporated into this Agreement by reference:

- Exhibit A Scope of Services
- Exhibit B Payment Terms and Procedures
- Exhibit C Insurance Requirements

1. DEFINITIONS

- 1.1. “Authorized Employees” means Contractor’s employees who have a need to know or otherwise access Protected Information to enable Contractor to perform its obligations under this Agreement.
- 1.2. “Authorized Persons” means Authorized Employees and Contractor’s agents and contractors who have a need to know or otherwise access Protected Information to enable Contractor to perform its obligations under this Agreement.
- 1.3. “Change Order” A Change Order is a written instrument used for modifying this Agreement with regards to the scope of Services, Agreement sum, and/or Agreement Time. An approved Change Order is a Change Order signed by the District Project Manager. An executed Change Order is a Change Order signed by both the District Project Manager and Contractor Project

Manager.

- 1.4. “Customer Information” means the name, address, phone number, account number and water usage data of any water or wastewater customer of the District.
- 1.5. “Days” shall mean calendar days.
- 1.6. “Delay Event” shall mean any act, occurrence or omission causing a delay in the completion of the Services within the time limits set forth in this Agreement.
 - 1.6.1. “Compensable Delay Event” shall mean a Delay Event that could not be avoided by Contractor mitigation, caused directly and solely by the District or by causes within the exclusive control of the District, and which were not concurrent with any other type of Delay Event.
 - 1.6.2. “Concurrent Delay Event” shall mean two or more independent Delay Events where the Delay Events occur at the same time during all or a portion of the delay period being considered, and where each of the Delay Events would have caused delay to Contractor even in the absence of any of the other Delay Events.
 - 1.6.3. “Excusable Delay Event” shall mean a Delay Event directly caused by events beyond the control of both Contractor and the District, including Force Majeure events, which is not concurrent with an Inexcusable Delay Event and which could not have been avoided by Contractor through reasonable mitigation measures.
 - 1.6.4. “Inexcusable Delay Event” shall mean a Delay Event caused by circumstances within the control of Contractor, its subcontractors or suppliers of any tier.
- 1.7. “District Information” means all data to be handled by Contractor pursuant to the Services, including but not limited to Customer Information, Employee Information, Facilities Information and Personal Information.
- 1.8. “Employee Information” means an employee identification number, personnel records and any Personal Information of a District employee.
- 1.9. “Facilities Information” means any data or records that could reveal details of critical District infrastructure or operations, including, but not limited to, reports, maps, drawings, databases, models, GIS information, and plans and schematics containing detailed information about the District’s water and wastewater infrastructure that, if released, could compromise the safety, integrity, and operations of the public water and wastewater system. Examples include the locations of security systems and security devices, services, pipelines, interceptors, aqueducts, valves, pressure zones, or details about major facilities (i.e., wet weather processing, treatment plants, pumping plants, and storage structures).
- 1.10. “Force Majeure” means any act of God, war, earthquake, fire, flood, storm, civil disobedience, court order, labor dispute, or other cause beyond a Party’s reasonable control Any acts of domestic or foreign hacking or cyberwarfare are specifically excluded from this definition of Force Majeure and do not excuse Contractor from performance.
- 1.11. “Highly-Sensitive Personal Information” means an individual’s:

- 1.11.1. Government-issued identification numbers (including Social Security number, partial Social Security number, driver's license number, or state-issued identification number);
 - 1.11.2. Financial account numbers, credit card numbers, debit card numbers, or credit report information, with or without any required security codes, access codes, personal identification numbers, or passwords that would permit access to an individual's financial accounts; or
 - 1.11.3. Biometric, genetic, health, medical, or medical insurance data.
- 1.12. "Personal Information" means information provided to Contractor by or at the direction of the District, information which is created or obtained by Contractor on behalf of the District, or information to which access was provided to Contractor by or at the direction of the District, in the course of Contractor's performance under this Agreement, that is:
- 1.12.1. Information that identifies or can be used to identify an individual (including, without limitation, names, signatures, addresses, telephone numbers, email addresses, and other unique identifiers);
 - 1.12.2. Information that can be used to authenticate an individual (including, without limitation, employee identification numbers, government-issued identification numbers, passwords or PINs, user identification and account access credentials or passwords, financial account numbers, credit or debit card numbers, credit report information, medical insurance data, answers to security questions, and other personal identifiers); and
 - 1.12.3. All Highly-Sensitive Personal Information.
- 1.13. "Protected Information" means the following:
- 1.13.1. Customer Information.
 - 1.13.2. Employee Information.
 - 1.13.3. Facilities Information.
 - 1.13.4. Personal Information.
- 1.14. "Security Breach" means any act or omission that gives rise to the reasonable belief of a [material] compromise to the security, confidentiality, or integrity of Protected Information or the physical, technical, administrative, or organizational safeguards put in place by Contractor or any Authorized Persons, or by the District should Contractor have access to the District's systems in the performance of the Services, that relate to the protection of the security, confidentiality, or integrity of Protected Information. Without limiting the foregoing, a [material] compromise shall include any unauthorized access to or disclosure or acquisition of Protected Information.
- 1.15. "Services" means those services described in Paragraph 2 and on Exhibit A to this Agreement.

2. SERVICES TO BE PROVIDED

- 2.1. Contractor agrees to furnish the Services as described in Exhibit A, Scope of Services, attached to and incorporated in this Agreement.
- 2.2. The Services shall be completed and submitted in accordance with the standards specified and the schedule listed in Exhibit A. The completion dates specified may be modified by mutual agreement between the District and Contractor, provided that the District's Project Manager notifies Contractor of modified completion dates by letter. Contractor agrees to diligently perform the Services. In the performance of this Agreement, time is of the essence.
- 2.3. To the extent any Service performance standards or requirements as described in this Agreement conflict with any performance standards or requirements included in any license or terms and conditions document provided by Contractor or Contractor's, partners, contractors or agents to the District in support of the Services, whether included as an exhibit to this Agreement or not, the requirements as stated in this Agreement shall govern.
- 2.4. It is understood and agreed that Contractor has the professional skills necessary to perform the Services and that the District relies upon the professional skills of Contractor to perform the Services in a skillful and professional manner. Contractor represents that it has all the necessary licenses to perform the Services and shall maintain them during the term of this Agreement. Contractor agrees that the Services shall follow practices usual and customary to the software development profession. Acceptance by the District of the Services does not operate as a release of Contractor from such professional responsibility for the work performed.
- 2.5. Contractor agrees to maintain in confidence and not disclose to any person or entity, without the District's prior written consent, any District Information or, trade secret, confidential information or knowledge or data relating to the products, process, or operation of the District. Contractor further agrees to maintain in confidence and not to disclose to any person or entity, any District Information, data, information, technology, or material developed or obtained by Contractor during the term of this Agreement. The covenants contained in this Paragraph shall survive the termination of this Agreement for whatever cause.
- 2.6. The originals of all computations, drawings, designs, graphics, studies, reports, manuals, photographs, videotapes, data, computer files, and other documents prepared or caused to be prepared by Contractor or its subconsultants in connection with the Services shall be delivered to and shall become the exclusive property of the District. The District is licensed to utilize these documents for the District applications on other projects or extensions of this project, at its own risk. Contractor and its subconsultants may retain and use copies of such documents, with written approval of the District.
- 2.7. Contractor is an independent contractor and not an employee of the District. Contractor expressly warrants that it will not represent that it is an employee or servant of the District.
- 2.8. Contractor is retained to provide the Services only and all payments made are compensation solely for provision of the Services and recommendations it may make in performing the Services.
- 2.9. It is further understood and agreed by the Parties that Contractor, in the performance of its obligations under this Agreement, is subject to the control or direction of the District as to the designation of tasks to be performed and the results to be accomplished, and not the means, methods, or sequence used by Contractor for accomplishing the results, unless otherwise

specified in Exhibit A.

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

3. TERM OF AGREEMENT

- 3.1. Unless earlier terminated pursuant to Paragraph 8, this Agreement shall commence on the Effective Date and shall continue in effect until [number in words (number) [year[s]/months] from such date (the "[Initial] Term")].
- 3.2. Following expiration of the Initial Term, the District may renew this Agreement for additional successive terms of [number] year[s] by providing Contractor with written notice for up to [number] additional successive terms (each a "Renewal Term" and, collectively, together with the Initial Term, the "Term").

4. COMPENSATION

- 4.1. For the Services described in Paragraph 2, the District agrees to pay Contractor in accordance with the method and amounts described in Exhibit B, attached hereto and incorporated herein. Total compensation under the Agreement shall not exceed a Maximum Agreement Ceiling of \$(dollars).
- 4.2. In case of changes affecting the scope of Services resulting from new findings, unanticipated conditions, or other conflicts or discrepancies, Contractor shall promptly notify the District of the identified changes and advise the District of the recommended solution. Work shall not be performed on such changes without prior written authorization of the District.

5. NOTICE TO PROCEED

- 5.1. This Agreement shall become effective upon execution of the second signature. Contractor shall commence work upon receipt of the District's Notice to Proceed, which shall be in the form of a letter signed by the District's Project Manager, as specified in Paragraph 11.1 herein. The District's Notice to Proceed will authorize the Services described in Exhibit A with ceiling prices described in Paragraph 4. No work shall commence until the Notice to Proceed is issued.

6. SECURITY OF PROTECTED INFORMATION

6.1. Standard of Care.

- 6.1.1. Contractor acknowledges and agrees that, in the course of providing the Services, Contractor may create, receive, or have access to Protected Information. Contractor shall comply with the terms and conditions set forth in this Agreement in its creation, collection, receipt, transmission, storage, disposal, use, and disclosure of Protected Information and be responsible for any unauthorized creation, collection, receipt, transmission, access, storage, disposal, use, or disclosure of Protected Information under its control or in its possession by all Authorized Persons. Protected Information is deemed to be the property of the District and is not the property of Contractor.
- 6.1.2. In recognition of the foregoing, Contractor agrees and covenants that it shall:
 - 6.1.2.1. Keep and maintain all Protected Information in strict confidence, using such degree of care as is appropriate to avoid unauthorized access, use, or disclosure;
 - 6.1.2.2. Not create, collect, receive, access, or use Protected Information in violation of law, including state, federal, and international law;
 - 6.1.2.3. Use and disclose Protected Information solely and exclusively for the purposes for which the Protected Information, or access to it, is provided by the District to Contractor pursuant to the terms and conditions of this Agreement, and not use, sell, rent, transfer, distribute, or otherwise disclose or make available Protected Information for Contractor's own purposes or for the benefit of anyone other than the District; and
 - 6.1.2.4. Not, directly or indirectly, disclose Protected Information to any person other than Authorized Persons.

6.2. Information Security.

- 6.2.1. Contractor represents and warrants that its creation, collection, receipt, access, use, storage, disposal, and disclosure of Protected Information does and will comply with all applicable federal, state and international privacy and data protection laws, as well as all other applicable regulations and directives. Contractor will remain aware at all times of changes to all applicable federal, state and international privacy and data protection laws and promptly implement all procedures and practices as may be necessary to remain in compliance with the laws, in each case, at Contractor's sole cost and expense.
- 6.2.2. Contractor shall implement and maintain a written information security program including appropriate policies, procedures and risk assessments to safeguard data security and privacy that are reviewed by Contractor at least annually.
- 6.2.3. Without limiting Contractor's obligations under Paragraph 6.2.1, Contractor shall implement administrative, physical, and technical safeguards to protect Protected Information from unauthorized access, acquisition, or disclosure, destruction, alteration, accidental loss, misuse, or damage that are no less rigorous than accepted industry best practices, the International Organization for Standardization's standards: ISO/IEC 27001 – Information Security Management Systems – Requirements and

ISO/IEC 27002 – Code of Practice for International Security Management, the National Institute of Standards and Technology (NIST) Cybersecurity Framework or Center for Internet Security, Critical Security Controls (CSC-20), and shall ensure that all such safeguards, including the manner in which Protected Information is created, collected, accessed, received, used, stored, processed, disposed of, and disclosed, comply with applicable data protection and privacy laws, as well as the terms and conditions of this Agreement.

- 6.2.4. At a minimum, Contractor's safeguards for the protection of Protected Information shall include: (i) limiting access of Personal Information to Authorized Persons; (ii) securing, both physically and technologically, business facilities, data centers, paper files, servers, backup systems, and computing equipment, including, but not limited to, all mobile devices and other equipment with information storage capability; (iii) implementing network, application, database, and platform security; (iv) securing information transmission, storage, and disposal; (v) implementing authentication and access controls within media, applications, operating systems, and equipment; (vi) encrypting Highly-Sensitive Personal Information stored on any media; (vii) encrypting Highly-Sensitive Personal Information transmitted over public or wireless networks; (viii) strictly segregating Protected Information from information of Contractor or its other customers so that Protected Information is not commingled with any other types of information; (ix) conducting risk assessments, penetration testing, and vulnerability scans and promptly implementing, at Contractor's sole cost and expense, a corrective action plan to correct any issues that are reported as a result of the testing; (x) implementing appropriate personnel security and integrity procedures and practices, including, but not limited to, conducting background checks consistent with applicable law; and (xi) providing appropriate privacy and information security training to Contractor's employees.
- 6.2.5. During the term of each Authorized Person's employment or retention through subcontract by Contractor, Contractor shall at all times cause such Authorized Persons to abide strictly by Contractor's obligations under this Agreement. Contractor further agrees that it shall maintain a disciplinary process to address any unauthorized access, use, or disclosure of Protected Information by any of Contractor's officers, partners, principals, employees, agents, or contractors.
- 6.2.6. Within 15 days of making any material changes to Contractor's security program or administrative, physical, or technical safeguards to protect Protected Information from unauthorized access, disclosure, or use under Paragraphs 6.2.2 and 6.2.3 of this Agreement, Contractor shall notify the District of the change in writing.
- 6.2.7. Upon the District's written request, Contractor shall provide the District with a network diagram that outlines Contractor's information technology network infrastructure and all equipment used in relation to fulfilling its obligations under this Agreement, including, without limitation: (i) connectivity to the District and all third parties who may access Contractor's network to the extent the network contains Protected Information; (ii) all network connections, including remote access services and wireless connectivity; (iii) all access control measures (for example, firewalls, packet filters, intrusion detection and prevention services, and access-list-controlled routers); (iv) all backup or redundant servers; and (v) permitted access through each network connection.

6.3. Security Breach Procedures.

6.3.1. Contractor shall:

- 6.3.1.1. Upon execution of this agreement, provide the District with the name and contact information for an employee of Contractor who shall serve as the District's primary security contact and shall be available to assist the District twenty-four (24) hours per day, seven (7) days per week as a contact in resolving obligations associated with a Security Breach;
- 6.3.1.2. Notify the District of a suspected Security Breach as soon as practicable, but no later than twenty-four (24) hours after Contractor becomes aware of it; and
- 6.3.1.3. Notify the District of any suspected Security Breaches by reporting via email to itsecurity@ebmud.com. Once a suspected Security Breach has been confirmed, written notice should be provided to the District within twenty-four (24) hours of confirmation that a breach occurred.

6.3.2. Immediately following Contractor's notification to the District of a Security Breach, the parties shall coordinate with each other to investigate the Security Breach. Contractor agrees to fully cooperate with the District in the District's handling of the matter, including, without limitation: (i) assisting with any investigation; (ii) providing the District with physical access to the facilities and operations affected; (iii) facilitating interviews with Contractor's employees, agents and others involved in the matter; and (iv) making available all relevant records, logs, files, data reporting, and other materials required to comply with applicable law, regulation, industry standards, or as otherwise required by the District.

6.3.3. Contractor shall, at its own expense, use best efforts to immediately contain and remedy any Security Breach and prevent any further Security Breach, including, but not limited to taking any and all action necessary to comply with applicable data security and privacy rights, laws, regulations, and standards. Contractor shall reimburse the District for all actual costs incurred by the District in responding to, and mitigating damages caused by, any Security Breach, including all costs of notice and/or remediation.

6.3.4. Contractor agrees that it shall not inform any third party of any Security Breach involving Protected Information without first obtaining the District's prior written consent, other than to inform a complaining District customer that the matter has been forwarded to the District. Further, Contractor agrees that the District shall have the sole right to determine: (i) whether notice of the Security Breach is to be provided to any individuals, regulators, law enforcement agencies, consumer reporting agencies, or others as required by law or regulation, or otherwise in the District's discretion; and (ii) the contents of such notice, whether any type of remediation may be offered to affected persons, and the nature and extent of any such remediation.

6.3.5. Contractor agrees to maintain and preserve all documents, records, and other data related to any Security Breach.

6.3.6. Contractor agrees to reasonably cooperate with the District in any litigation,

investigation, or other action deemed necessary by the District to protect its rights relating to the use, disclosure, protection, and maintenance of the Protected Information.

6.4. Oversight of Security Compliance.

At least once per year, Contractor shall conduct site audits of the information technology and information security controls for all facilities used in complying with its obligations under this Agreement, including, but not limited to, obtaining a network-level vulnerability assessment performed by a recognized third-party audit firm based on recognized industry best practices. Upon the District's written request, Contractor shall make available to the District for review all of the following, as applicable: Contractor's latest Payment Card Industry (PCI) Compliance Report, Statement on Standards for Attestation Engagements (SSAE) No. 16 audit reports for Reporting on Controls at a Service Organization, Service Organization Controls (SOC) Type 1, 2, or 3 audit reports, and any reports relating to its ISO/IEC 27001 certification. Contractor will promptly address any exceptions noted on the SOC reports, or other audit reports, with the development and implementation of a corrective action plan by Contractor's management.

6.5. Return or Destruction of Protected Information.

At any time during the term of this Agreement at the District's written request or upon the termination or expiration of this Agreement for any reason, at the District's direction Contractor shall, and shall instruct all Authorized Persons to, promptly return to the District all copies, whether in written, electronic, or other form or media, of Protected Information in its possession or the possession of such Authorized Persons, or securely dispose of all such copies, and certify in writing to the District that such Protected Information has been returned to the District or disposed of securely. Contractor shall comply with all directions provided by the District with respect to the return or disposal of Protected Information.

6.6. Contractor acknowledges that any breach of its covenants or obligations set forth in Paragraph 6 may cause the District irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the District is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance, and any other relief that may be available from any court, in addition to any other remedy to which the District may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.

7. BREACH OF AGREEMENT

7.1. The following shall be considered a material breach of this Agreement:

7.1.1. Contractor's failure to comply with any of the security requirements of Paragraph 6.

7.1.2. The failure of the Services to comply with the technical specifications of Exhibit A.

7.1.3. Contractor's failure to implement the Services in accordance with the schedule provided in Exhibit A.

7.1.4. Contractor's failure to comply with any warranty provision of Paragraph 14.

- 7.1.5. Contractor's failure to supply skilled supervisory personnel, an adequate number of properly skilled workers, proper materials, or necessary equipment to prosecute the Services in accordance with this Agreement.
- 7.1.6. Contractor's failure to provide the District with a written plan to cure a District identified default as specified in Paragraph 7.2, or the District's reasonable refusal to accept Contractor's plan for curing its breach; or Contractor does not fully carry out an accepted plan to cure.
- 7.1.7. Contractor's abandonment of the Services. Abandonment is conclusively presumed when the District requests a written plan to cure a breach and Contractor does not submit the plan within five (5) business days of the District's request.
- 7.1.8. Contractor's insolvency or filing for relief under the bankruptcy laws of the United States.
- 7.1.9. Contractor's general assignment of this Agreement for the benefit of its creditors or failure to pay its debts as the same become due.
- 7.1.10. Appointment of a receiver to take charge of Contractor's property.
- 7.1.11. Contractor's disregard of legal requirements of agencies having jurisdiction over the Services, Contractor, or the District.
- 7.1.12. Contractor's breach of any other material obligation under this Agreement.
- 7.2. If the nature of any of the breaches identified in Paragraphs 7.1.1 through 7.1.12 is such that the breach may be cured, the breach shall not be considered a material breach if, after written notice from the District, the District is presented with a satisfactory plan to cure the breach within five (5) days and the breach is cured within thirty (30) days, except that any failures related to Contractor's information security obligations under Paragraph 6 shall be cured within five (5) days.
- 7.3. Upon any material breach of this Agreement, the District shall have the following remedies, at its option:
 - 7.3.1. The District may terminate the Agreement immediately in writing for cause under Paragraph 8.1.
 - 7.3.2. The District may provide notice in writing to Contractor of its intent to terminate this Agreement for cause, with the notice providing an effective termination date. The time between the date of the notice and the effective date of termination shall be the "Notice Period."
 - 7.3.3. During any Notice Period:
 - 7.3.3.1. Contractor shall continue to retain the District Information, or solely such specific databases or other collections or articles of District Information as the District may allow;
 - 7.3.3.2. Contractor shall continue to provide the Services as though this Agreement

was still in force;

7.3.3.3. The District shall pay in full all undisputed compensation due Contractor as of the notice date and shall pay monthly compensation to Contractor for retention of the Services, in accordance with the Agreement;

7.3.3.4. Contractor will fully cooperate with the District so as to enable the District to transition the District Information and the Services to a District platform or a platform provided by a third party.

7.3.4. The District shall have the right, through written notice to Contractor, to extend the Notice Period or terminate the Agreement earlier than the Notice Period.

7.4. The remedies in this Paragraph 7 shall not be deemed to be exclusive but shall be in addition to all other remedies available in this Agreement or at law or in equity.

8. TERMINATION OF AGREEMENT

8.1. Termination by the District for Cause:

8.1.1. District may terminate Contractor's right to proceed under this Agreement, in whole or in part, for cause at any time after the occurrence of any material breach under Paragraph 7.

8.2. Termination by the District for Convenience:

8.2.1. The District may, at its option, and for its convenience, terminate this Agreement at any time by giving a minimum 30 day written notice to Contractor specifying the effective date of termination. Upon such termination, Contractor agrees to comply with the notice and further agrees to waive any claims for damages, including loss of anticipated profits, on account of the termination; and, as the sole right and remedy of Contractor, the District shall pay Contractor as set forth below.

8.2.2. Upon receipt of a notice of termination for convenience, Contractor shall, unless the District directs otherwise, do the following:

8.2.2.1. Immediately discontinue its performance of the Agreement to the extent specified in the notice.

8.2.2.2. Place no further orders or subcontracts for equipment, services or software, except as may be necessary for completion of a portion of the Services that is not discontinued or that is necessary for an orderly cessation of the Services.

8.2.2.3. Promptly cancel, on the most favorable terms reasonably possible, all subcontracts to the extent they relate to the performance of the discontinued portion of the Services, except for any subcontracts for which the District has requested assignment.

8.2.2.4. Thereafter, perform only such Services as may be necessary to preserve and protect work done in furtherance of the Services already in progress.

8.3. This Agreement may be terminated by Contractor upon ninety (90) days written notice to the District only in the event of substantial failure by the District to fulfill its obligations under this Agreement through no fault of Contractor.

8.4. Effect of Termination:

- 8.4.1. Upon termination, the obligations of the Agreement shall continue as to portions of the Services already performed and, subject to Contractor's obligations under Paragraph 8.2.2, as to bona fide obligations assumed by Contractor prior to the date of termination.
- 8.4.2. Upon termination of this Agreement the District may, at its election and by notice to Contractor, accept the assignment of any or all of Contractor's subcontracts and then complete the Services by any method the District may deem expedient.
- 8.4.3. If this Agreement is terminated, Contractor shall be entitled to compensation for services satisfactorily performed up to the effective date of termination; provided however, that the District may condition payment of such compensation upon Contractor's delivery to the District of any and all District Information, documents, photographs, computer software, digital files, and other materials provided to Contractor or prepared by Contractor for the District under this Agreement. Payment by the District for the services satisfactorily performed to the effective date of termination shall be the sole and exclusive remedy to which Contractor is entitled in the event of termination of the Agreement and Contractor shall be entitled to no other compensation or damages and expressly waives same.
- 8.4.4. Termination of this Agreement shall not relieve Contractor of any warranty obligations under Paragraph 14.
- 8.4.5. No termination or action taken by the District after termination shall prejudice any other rights or remedies of the District provided by law or by this Agreement.
- 8.4.6. If, after termination for other than convenience, it is determined that Contractor was not in material breach of this Agreement, or that the material breach was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for convenience pursuant to Paragraph 8.2.

9. CHANGES

- 9.1. Changes in the Services can only be made by way of an approved Change Order. The District Project Manager shall have authority to approve the Change Order. If the change causes an increase or decrease in the Maximum Cost Ceiling a change in the time for performance under the Agreement, or other substantial modifications to the Services, the District Project Manager shall memorialize these changes as an amendment to the Agreement.
- 9.2. The District reserves the right to make changes in the Services specified in Exhibit A or to omit any item or portion of the Services, as may be deemed by the District Project Manager to be necessary or advisable and to order such extra work as may be determined by the District Project Manager to be required for the proper execution and completion of the Services. Any such changes will be ordered in writing by the District Project Manager. The determination of the District Project Manager on all questions relating to changes, including extra work, shall

be conclusive and binding.

- 9.3. If Contractor agrees with the terms and conditions of the approved Change Order, Contractor shall indicate its acceptance by signing the original copy and returning it to the District Project Manager with reasonable promptness and in such sequence as to not delay the Services or activities of the District or of separate contractors, whichever is sooner. Payment in accordance with the terms and conditions set forth in the executed Change Order shall constitute full compensation for all Services included in the Change Order and the District will be released from any and all claims for direct, indirect, and impact expenses and additional time impact resulting from the Services.
- 9.4. If Contractor disagrees with the terms and conditions of the approved Change Order, Contractor shall indicate specific areas of disagreement and return the approved Change Order to the District Project Manager with a detailed written dispute. No payment will be made on the disputed work until the approved Change Order is returned to the District Project Manager. However, whether or not Contractor agrees with the terms and conditions of an approved Change Order, Contractor shall immediately revise its sequence of operations as required to facilitate timely completion of the changed work and shall proceed with the revised work sequence.

10. DELAYS

- 10.1. Contractor shall take reasonable precautions to foresee and prevent Delay Events in execution of the Services.
 - 10.1.1. When Contractor foresees a Delay Event, and upon the occurrence of a Delay Event, Contractor shall immediately notify the District Project Manager of the probability or the actual occurrence of a delay, and its cause. Within 15 days from the identification of a Delay Event, Contractor shall provide the District Project Manager with a detailed written description of the delay, its cause, its impact on the Services and the project schedule, and Contractor's mitigation plans. Failure to provide the notification required above shall operate as a waiver of Contractor's right to any additional time or compensation resulting from the Delay Event for whatever cause.
 - 10.1.2. The District Project Manager will investigate the facts and ascertain the extent of the Delay Event, and the District Project Manager's findings regarding the Delay Event shall be final and conclusive, except in the case of gross error on the part of the District Project Manager. An extension of time must be approved by the District Project Manager to be effective.
 - 10.1.3. The granting, or acceptance, of extensions of time to complete the Services will not operate as a release of Contractor or the surety on Contractor's faithful performance bond.
 - 10.1.4. With respect to all Delay Events (Compensable, Excusable, or Inexcusable), Contractor shall reschedule the Services and revise its operations, to the extent possible, to mitigate the effects of the Delay Event.
- 10.2. For Inexcusable Delay Events, Contractor shall not be entitled to an extension of time or additional compensation for any loss, cost, damage, expense or liability resulting directly or indirectly from the Inexcusable Delay Event.

- 10.3. For Excusable Delay Events , the District Project Manager will grant Contractor an extension of the time to perform under the Agreement, but Contractor shall not be entitled to any additional compensation for any loss, costs, damages, expenses or liability resulting directly or indirectly from the Excusable Delay Event.
- 10.4. For Compensable Delay Events, the District Project Manager will grant Contractor an extension of the time to perform under the Agreement and compensation in an amount that represents Contractor's actual direct costs incurred as a direct result of the compensable delay. Contractor may recover its direct costs only and may not recover (and waives) all other types of indirect, consequential, special and incidental damages.
- 10.5. For Concurrent Delay Events, the following rules apply:
- 10.5.1. If one or more of the Concurrent Delay Events are Excusable or Compensable, the period of concurrent delay will be treated as an Excusable Delay Event.
- 10.5.2. If all of the Concurrent Delay Events are Inexcusable, the period of concurrent delay will be treated as an Inexcusable Delay Event.

11. PROJECT MANAGERS

- 11.1. The 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 Contractor's performance under this Agreement, and for liaison and coordination between the District and Contractor. Contractor may be requested to assist in such coordinating activities as necessary as part of the services. In the event the District wishes to make a change in the District's representative, the District will notify Contractor of the change in writing.
- 11.2. Contractor designates [Contractor's Project Manager's name] as its Project Manager, who shall have immediate responsibility for the performance of the work and for all matters relating to performance under this Agreement. Any change in Contractor-designated personnel or subconsultants shall be subject to approval by the District's Project Manager. *[The following sentence is optional.]* Contractor hereby commits an average of [1 to 100] percent of [Contractor's Project Manager's name] time on this project for the duration of the project.

12. INSURANCE

- 12.1. Required Coverage. The Contractor shall take out and maintain during the life of the Agreement all insurance required as described in Exhibit C, attached hereto and incorporated herein.
- 12.2. Non-Waiver. This Paragraph 12 is not intended to and shall not be construed in any manner as to waive, restrict, or limit the liability of Contractor for any obligations under this Agreement (including Contractor's obligation to indemnify, defend and hold harmless the District).

13. INDEMNIFICATION

- 13.1. General Indemnification. Contractor expressly agrees to defend, indemnify, and hold harmless

the 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 pertaining or relating to Contractor's, its associates', employees', subcontractors', or other agents' negligence, recklessness, or willful misconduct, in the operation and/or performance under this Agreement.

- 13.2. Security Breach Indemnification. Contractor expressly agrees to defend, indemnify, and hold harmless the 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 pertaining or relating to Contractor's, its associates', employees', subconsultants', or other agents' failure to comply with any of the Security provisions of Paragraph 6 of this Agreement.

14. WARRANTIES AND REMEDIES

- 14.1. Contractor warrants that the Services:

14.1.1. Will conform to and perform in accordance with the requirements of this Agreement, including the Security provisions of Paragraph 6, and any specifications set forth in Exhibit A;

14.1.2. Will be performed in a professional and workmanlike manner in accordance with industry standards and practices for similar services, using personnel with the requisite skill, experience, and qualifications, devoting adequate resources to meet its obligations under this Agreement;

14.1.3. Will be provided free from harmful or malicious code;

14.1.4. Will be provided in compliance with all applicable laws; and

14.1.5. Will not infringe, misappropriate, or otherwise violate any Intellectual Property Right or other right of any third party.

- 14.2. In the event of any Security Breach or if the Services fail to comply with the warranties as stated in Paragraph 14, in addition to any equitable remedies provided in Paragraphs 6 and 7, the District shall be entitled to any resulting direct and indirect damages.

- 14.3. Except for the express warranties provided in this Paragraph 14, each Party hereby disclaims all warranties, whether express, implied, statutory, or otherwise under or in connection with this Agreement or any subject matter hereof.

- 14.4. To the extent the provisions of this Paragraph 14 conflict with any warranties, disclaimers, limitations of liability or exclusions of remedies included in any license or terms and conditions document provided to the District by Contractor or Contractor's, partners, contractor's or agents in support of the Services, the provisions of this Paragraph 14 shall govern.

15. NOTICES

- 15.1. Any notice that the District may desire or is required at any time to give or serve Contractor may be delivered personally, or be sent by United States mail, postage prepaid, addressed to:

[Contractor's firm's name]

[address]

Attention: [contact, usually Contractor's project manager],

or at such other address as shall have been last furnished in writing by Contractor to the District.

- 15.2. Any notice which Contractor may desire or is required at any time to give or serve upon the 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:

Manager of Risk Management

P.O. Box 24055, MS 409

Oakland, CA 94623-1055

or at such other address as shall have been last furnished in writing by the District to Contractor.

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

16. CONTRACT EQUITY PROGRAM COMPLIANCE

- 16.1. Contractor expressly agrees that this Agreement is subject to the District's Contract Equity Program ("CEP"). Contractor is familiar with the District's CEP and Equal Opportunity Guidelines, and has read and understood all of the program requirements. Contractor understands and agrees to comply with the CEP and all requirements therein, including each of the Good Faith Efforts. Contractor further understands and agrees that non-compliance with the CEP requirements may result in termination of this Agreement.

17. NONDISCRIMINATION

- 17.1. There shall be no discrimination in the performance of this Agreement, against any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, gender including gender identity or expression, age, marital or domestic partnership status, mental disability, physical disability (including HIV and AIDS), medical condition (including genetic characteristics or cancer), veteran or military status, family or medical leave status, genetic information, or sexual orientation. Contractor shall not establish or permit any such practice(s) of discrimination with reference to the Agreement or any part. Contractors determined to be in violation of this Paragraph shall be deemed to be in material breach of this Agreement.
- 17.2. **Contractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin in the performance of this Agreement. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.**
- 17.3. Contractor shall include the two nondiscrimination provisions above in all subcontracts.

18. GENERAL PROVISIONS

- 18.1. Contractor affirms that it does not have any financial interest or conflict of interest that would prevent Contractor from providing unbiased, impartial service to the District under this Agreement.
- 18.2. This Agreement represents the entire understanding of the District and Contractor as to those matters contained within it. No prior oral or written understanding shall be of any force or effect with respect to those matters covered under this Agreement. This Agreement may only be modified by amendment in writing signed by each party.
- 18.3. This Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever, under or by reason of this Agreement.
- 18.4. This Agreement is to be binding on the successors and assigns of the Parties. The services to be provided under this Agreement are deemed unique and Contractor shall not assign, transfer or otherwise substitute its interest in this Agreement or any of its obligations hereunder without the prior written consent of the District.
- 18.5. 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.
- 18.6. In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either Party against the other Party arising out of this Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and court costs from the non-prevailing Party.
- 18.7. 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.
- 18.8. This Agreement and all matters relating to it shall be governed by the laws of the State of California.
- 18.9. Contractor, its employees, subcontractors, and agents shall not refer to the District, or use any logos, images, or photographs of the District for any commercial purpose, including, but not limited to, advertising, promotion, or public relations, without the District's prior written consent. Such written consent shall not be required for the inclusion of the District's name on a customer list.
- 18.10. The District's waiver of the performance of any covenant, condition, obligation, representation, warranty or promise in this agreement shall not invalidate this Agreement or be deemed a waiver of any other covenant, condition, obligation, representation, warranty or promise. The District's waiver of the time for performing any act or condition hereunder does not constitute a waiver of the act or condition itself.

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

18.12. The provisions of Paragraphs 2.5, 13 and 14 shall survive any termination of this Agreement.

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

EAST BAY MUNICIPAL UTILITY DISTRICT

By: _____
Vladimir Bessarabov, Manager of Risk Management

Date _____

Approved As To Form

By: _____
for the Office of the General Counsel

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

By: _____
(Name),
(Title)

Date _____

EXHIBIT D

IRAN CONTRACTING ACT CERTIFICATION

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

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

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

CERTIFICATION FOR PARAGRAPH 1:

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

Firm: _____

By: _____ Date: _____
(Signature of Bidder)

Title: _____

Signed at: _____ County, State of: _____

OR

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

EXHIBIT E

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

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

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

EXHIBIT F

Preliminary Security Information Gathering (PSIG)

As a component of the supplemental RFP process, EBMUD will be performing a qualifying evaluation of each of the RFP respondents Information Protection program. Please respond to the following questions, keeping your responses as brief as possible, please limit your responses to no more than five (5) pages in total. If your organization is selected you will have the opportunity to provide more in- depth responses during the formal security review.

A. Risk Management

Objective: Organizations should create and maintain a continuous process for IT and Infrastructure risk management to identify, quantify, and prioritize risks against defined risk acceptance levels and objectives relevant to the organization.

1. Describe your organization's IT Risk Governance
2. Describe your organization's IT Risk Life Cycle

B. Information Security Policy

Objective: Organizations should provide management direction and support for information security in accordance with business requirements and relevant laws and regulations. They should set a clear policy direction in line with business objectives and demonstrate support for, and commitment to, information security through the issue, acceptance and maintenance of an information security policy across the organization.

1. Describe your organization's Information Security Policy
2. Describe how the policy or policy set is reviewed and maintained, include the frequency of review

C. Information Security Organization

Objective: Organizations should establish a management framework to control and manage the information security organization. This should include the protection of organizational information through the use of employee confidentiality agreements and the addition of clauses in dependent service provider contracts or agreements.

1. Describe the size and structure of your Information Security department.
2. Does your organization rely on dependent service providers? If so, how is their security vetted by your organization?

D. Physical and Environmental Security

Objective: Organizations should take appropriate steps to prevent unauthorized physical access, as well as accidental and intentional damage to the organizations' physical premises, systems and information. Organizations should also take appropriate steps to protect against environmental and systems malfunctions or failures.

1. Describe the physical controls in place at your data center(s)
2. Describe the environmental controls in your data center(s)

E. Operational Security

Objective: Organizations should maintain documented operating procedures and technological controls to ensure the effective management, operation, integrity and security of their information systems and data.

1. Describe the operational controls in place
2. How does your organization log and monitor system and network activity?
3. Describe your intrusion detection methodology
4. Describe your organization's data backup and restoration process
5. Describe your organization's change control process

F. Access Control

Objective: Organizations should ensure sufficient control over access to information, including controlled access to target data and information processing systems and facilities. These controls should be based on security and business requirements, and should follow both industry best practices and internal policies.

1. Describe your organization's access control policy
2. How does your organization handle privilege delegation and separation of duties?
3. How does your organization handle inactive accounts and access revocation?

G. Software Development and Maintenance

Objective: Organizations should utilize a comprehensive application security program to help ensure that external high-risk applications are consistent with industry security requirements. This should include full application compliance testing and software development reviews.

1. Describe your Software Development Lifecycle
2. Describe your application vulnerability assessment methodology
3. Describe your application and system patching strategy.
4. What is the frequency of application and system security review?

H. Incident management

Organizations' incident response programs should include formal event reporting and escalation procedures that should be clearly communicated throughout the organizations, and should include the active participation of incident response members with clearly defined roles and responsibilities.

1. Describe your incident management program

I. Business Continuity

Objective: Organizations should incorporate business continuity considerations into the overall design of their business model to mitigate the risk of service disruptions and the impacts of those within the supply chain. This should include an enterprise-wide, process-oriented approach that considers technology, business operations, testing, and communication strategies that are critical to business continuity planning for the entire business.

1. Describe your Organization's Business Continuity program
2. Has your Organization performed a recent Business Impact Analysis?
3. Does your organization have a current Threat Assessment?
4. How often is your business continuity plan tested?

J. Regulatory Compliance

Objective: Organizations should ensure compliance of information systems with the organizational security policies and standards to include checking systems regularly against compliance with security implementation standards and regulatory requirements.

1. How does your organization ensure compliance with internal policies and standards?
2. How do you ensure compliance with Federal, State, and local laws?

K. Privacy

Objective: Organizations should establish a management framework to control and manage their privacy program. This should include the overall management of the privacy program within the organization and with all third parties that have access to target privacy data. The privacy program should include: individuals responsible for the creation, oversight and maintenance of the program; all third parties meeting their commitments under the organization's business requirements, privacy applicable law, policy and industry best practices; and the protection and privacy of target privacy data through its life cycle of collection, storage, usage, sharing, transferring, securing, retention and destruction.

1. Describe your organization's Privacy program

EXHIBIT G

EMPLOYMENT DATA CERTIFICATION AND INSTRUCTIONS



EMPLOYMENT DATA AND CERTIFICATION INSTRUCTIONS (P-025)

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

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

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

SECTION A

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

A1. TYPE OF ORGANIZATION

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

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

NAME	TITLE	FAMILY RELATIONSHIP	PERCENTAGE
			%
			%
			%

☐ JOINT VENTURE

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

	%
	%

☐ PARTNERSHIP

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

A2. COMPOSITION OF OWNERSHIP

Indicate the percent of ethnic and gender ownership below

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

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

SECTION B

B1. EMPLOYMENT DATA

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

RACE/ETHNICITY (number of employees)													
Hispanic or Latino		Not Hispanic or Latino											
		Male						Female					
Male	Female	White	Black or African American	Native Hawaiian or Other Pacific Islander	Asian	American Indian or Alaska Native	Two or More Races	White	Black or African American	Native Hawaiian or Other Pacific Islander	Asian	American Indian or Alaska Native	Two or More Races
A	B	C	D	E	F	G	H	I	J	K	L	M	N
JOB CATEGORIES													Total A-N
Executive/Senior Level Officials & Managers													
First/Mid-Level Officials & Managers													
Professionals													
Technicians													
Sales Workers													
Administrative Support Workers													
Craft Workers													
Laborers & Helpers													
Service Workers													
Firm's Total													
Bay Area* Total													

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

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

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

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

PRINT NAME

TITLE

TELEPHONE NUMBER

SECTION C

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

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

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

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

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

There shall be no discrimination in the performance of this contract, against any person, or group of persons, on account of race, color, religion, religious creed, national origin, ancestry, gender including gender identity or expression, age, marital or domestic partnership status, mental disability, physical disability (including HIV and AIDS), medical condition (including genetic characteristics or cancer), genetic information, sexual orientation, or military and veteran status. The Contractor shall not establish or permit any such practice(s) of discrimination with reference to the contract. Contractors determined to be in violation of this section will be deemed to be in material breach of the contract.

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

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

EXECUTED IN _____

CITY, COUNTY, STATE

ON _____

DATE

BY _____

PRINT NAME

TITLE

SIGNATURE

PHONE NUMBER

P-025 SUPPLEMENT

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

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

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

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

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

TOTAL USA 39.0% 33.7% 27.2%

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

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