

REQUEST FOR PROPOSAL (RFP)

for Cultural Resources and Tribal Ethnography Studies

RFP Number WRPD-3-26

ADDENDA

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

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RESPONSE DUE

August 14, 2026
4:30 p.m. PST

SUBMIT ELECTRONICALLY TO*

Sabrina Cheng, EBMUD
sabrina.cheng@ebmud.com

**Hardcopy proposals will not be accepted*

EAST BAY MUNICIPAL UTILITY DISTRICT

RFP for Cultural Resources and Tribal Ethnography Studies RFP Number WRPD-3-26

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EBMUD IS REQUIRED TO RESPOND TO CALIFORNIA PUBLIC RECORDS ACT (CA PRA) REQUESTS. REQUEST FOR PROPOSALS (RFP) ARE SUBJECT TO CA PRA REQUESTS. IF YOU ARE SUBMITTING SENSITIVE SECURITY INFORMATION ABOUT YOUR PRODUCTS OR SERVICES AS PART OF YOUR RESPONSE TO AN RFP FOR SOFTWARE SERVICES, YOU MUST SUBMIT IT AS PART OF EXHIBIT E FOR IT TO BE CATEGORIZED AS EXEMPT FROM CA PRA REQUESTS. ANY INFORMATION SUBMITTED OUTSIDE OF EXHIBIT E MAY BE RELEASED IN RESPONSE TO A CA PRA REQUEST.

ATTACHMENTS

EXHIBIT A – RFP RESPONSE PACKET

EXHIBIT B – INSURANCE REQUIREMENTS

EXHIBIT C – CONSULTING AND PROFESSIONAL SERVICES AGREEMENT

EXHIBIT D – IRAN CONTRACTING ACT CERTIFICATION

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

I. STATEMENT OF WORK

A. SCOPE

It is the intent of these specifications, terms, and conditions to describe the performance of technical studies related to Cultural Resources (Archaeology and Built Environment) and Tribal Ethnography Resources to support the Federal Energy Regulatory Commission (FERC) Project 2916 – Lower Mokelumne River (Project) relicensing effort.

East Bay Municipal Utility District (District) intends to award a multi-year contract to the Proposer(s) who best meets the following District's requirements:

- Perform the two studies according to the standards and objectives in the Cultural Resources Study Plan (CR-1) and the Tribal Ethnography Resources Study Plan (CR-2), which support the FERC Project 2916 relicensing effort.
- Review existing management plans and archaeological data, as well as EBMUD data from the Project area to develop a baseline with an understanding of the current management goals and objectives in the Project vicinity.
- Review the two study plans to develop and implement a program to gather pertinent data, including measurements and sampling leading to two study reports (CR-1 and CR-2 study reports).
- Conduct pedestrian field surveys for cultural resources coordinating with Tribal monitors, as appropriate.
- Work with an ethnographer with experience with interested Tribes to interview, collaborate, and obtain privileged/confidential Tribal interests and information (and treat information as privileged per Tribal requirements). EBMUD is interested in ensuring that the ethnographer will be well-received by the Tribes in order to facilitate the gathering of the necessary information.
- Support EBMUD's meetings/consultations with Tribal representatives to implement the ethnographic study. Document study methods, data, and results in two Technical Study Reports (TSRs), including the draft Cultural Resources TSR (CR-1) and Tribal Ethnography Resources TSR (CR-2).
- Evaluate study results to develop recommendations and mitigations for potential license requirements for the FERC license No. 2916.
- Incorporate draft review comments as appropriate and prepare a Final TSR for both studies.

Findings and results from the studies/analyses will need to support development of the Historic Properties Management Plan (HPMP) that will be part of a future step of the relicensing process. Preparation of the HPMP is not part of this RFP.

B. PROPOSER QUALIFICATIONS

a. Proposer Minimum Qualifications

- i. Proposer, Proposer's principal, or Proposer's staff shall have been regularly engaged in the business of providing cultural and archaeological field support in implementing study plans and their development for at least five (5) years.
- ii. Proposer shall conduct work using a professional archaeologist qualified to work in California as a Principal Investigator, as defined by the professional qualifications adopted by the California State Historical Resources Commission.
- iii. Proposer shall possess all permits, licenses, and professional credentials necessary to perform services as specified under this RFP.

C. SPECIFIC REQUIREMENTS

PART 1: Cultural Resources (Archaeological and Built Environment) Study (CR-1)

A reasonable and good-faith effort is required to identify historic properties (archaeological and built environment) that may be affected by FERC Project No. 2916. Anticipated study methodology includes completing an archaeological inventory with archival records searches and pedestrian field surveys encompassing the Area of Potential Effect (APE), as outlined in Figure 1, and buffer areas, as appropriate. The general standard for archaeological inventories in the region is pedestrian surface survey, with systematic, complete coverage via controlled transects. As field conditions and tribal input may indicate potential effects outside the mapped APE (e.g., access/staging footprints; culturally sensitive locations), the Proposer shall use an adaptive approach. In coordination with EBMUD and consulting Tribes/THPO(s), the Proposer may extend field surveys, documentation, and effects analysis beyond the APE when warranted by observed conditions or tribal recommendations. Extensions beyond the APE in defined corridors may be authorized in the field by EBMUD's cultural resources lead and project management team; larger extensions require written approval. The Proposer shall document each extension with GPS tracks/maps, a brief justification (reason, requester, cultural/technical basis), and a memo proposing any APE refinement or addendum.

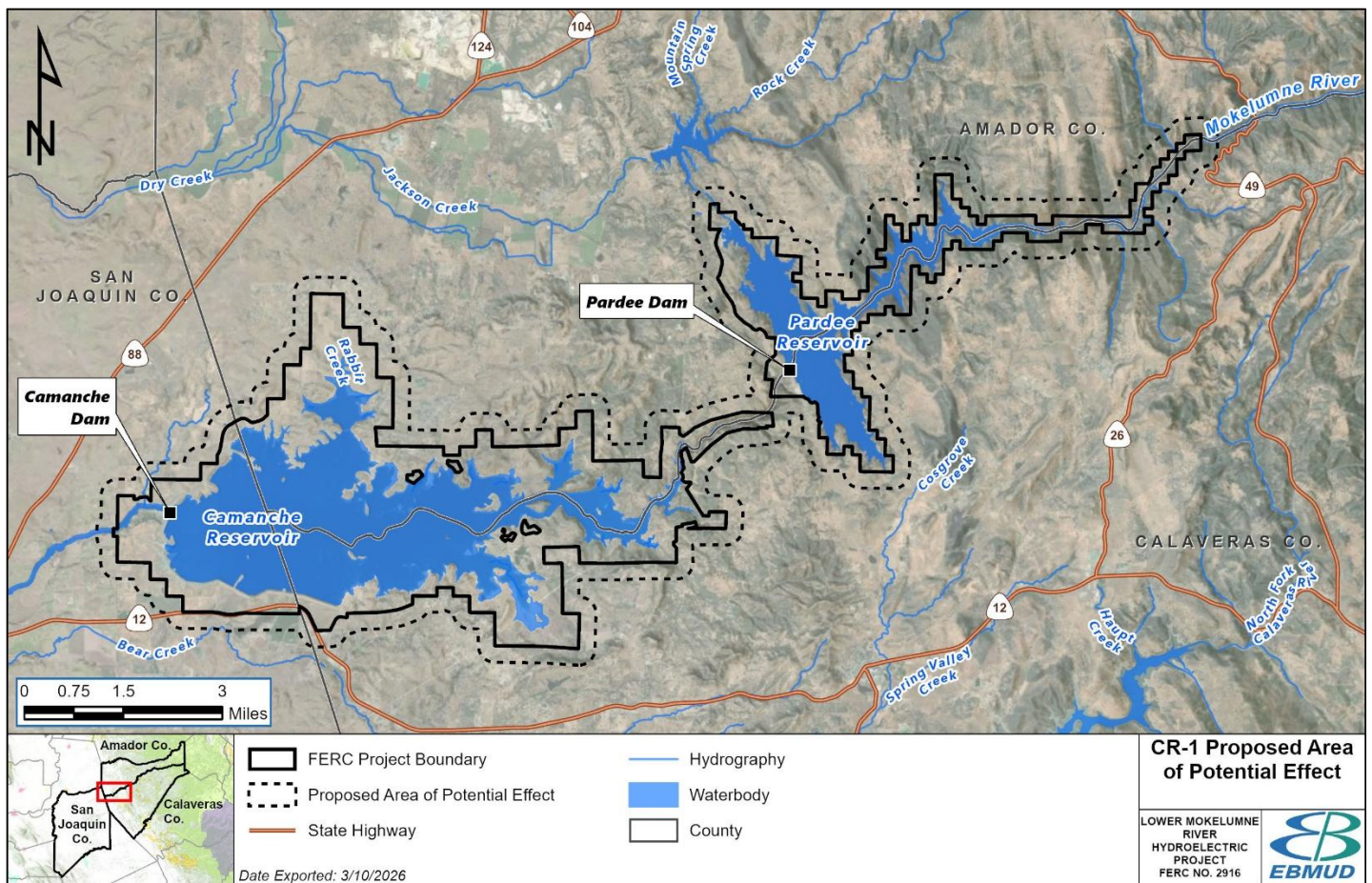


Figure 1. CR-1 Area of Potential Effect.

Records Search Update and Additional Background Research

As part of the inventory, an up-to-date accounting of all previously recorded archaeological sites within the APE will be required, as all such sites must be accounted for during the field survey. The archaeological records search for the APE was last updated in 2021. This search should be updated to include more recent work as part of this study.

Additional background research should also be conducted as part of a more complete records search effort, primarily to provide context for historic-period sites discovered during the survey. This would include searches of land patents; Government Land Office plats; historical maps and aerial photos; census records; newspaper accounts; scholarly research; and any relevant maps or other materials at EBMUD offices. A detailed built-environment survey of the APE has recently been completed (Demarais et al. 2025), meeting EBMUD's mandate to make a reasonable and good-faith effort to identify these resources. The 2025 survey made a number of recommendations that the successful Proposer will assist EBMUD in addressing in this study.

Field Survey

The field survey will be supervised by one or more qualified professional archaeologists (i.e., individuals who meet the Secretary of the Interior's Professional Qualifications Standards for Archaeology at 36 CFR Part 61) who will participate in all field work. Tribes with ancestral ties to areas within or encompassing the APE will have the option to provide a Tribal Monitor during the field survey.

During the survey, archaeologists will walk parallel transects spaced at no more than 20 meters (approximately 22 yards), as vegetation and terrain allow, within the Project's study area (APE plus 0.25-mile buffer). If conditions allow, lands typically inundated by Project reservoirs will be examined if they become accessible during the survey season. Areas within the study area that cannot be accessed in a safe manner (e.g., locations with dense vegetation or unsafe slopes) will not be included within the survey or recording of archaeological resources. These areas will be identified in the resulting survey report, and an explanation for variations in survey coverage will be provided.

Locations of previously recorded archaeological sites will be verified, and their site records will be updated when the existing documentation does not meet current standards for recording or if the condition and/or integrity of the property has changed since its previous recording. The archaeologists will determine if sketch maps for previously documented sites require revision to describe current site conditions more accurately.

Newly discovered archaeological resources, including isolated finds, will be documented following the documentation procedures outlined in the Instructions for Recording Historical Resources (California State Office of Historic Preservation [OHP] 1995), which utilizes California Department of Parks and Recreation DPR523 forms. Sketch maps will be drawn to scale. All site constituents, including artifacts and features, will be described, photographed, and mapped.

Field personnel will use global positioning system (GPS) receivers with sub-meter accuracy to document the location of cultural resources, including site boundaries, artifacts (including isolates), and features. These data will be compiled in a Project-wide geographic information system (GIS) and provided to EBMUD at the conclusion of the survey to assist with future management of these resources.

EBMUD's 2019 Cultural Resources Management Plan provides initial guidance on field survey techniques, Tribal involvement, and procedures in the event of discovery of human remains. Tribal Monitors provided by Tribes may join for portions of the survey. EBMUD will enter into agreements with Tribal Monitors .

National Register Evaluation

National Register evaluations will be completed where applicable and where sufficient information is available. However, archaeological sites often cannot be evaluated at the survey phase, unless they can be found to contain National Register-eligible qualities based on surface features alone (e.g., pictographs) or ineligible due to a clear lack of physical integrity (e.g., redeposited materials). Some sites will therefore remain unevaluated and treated as eligible for the National Register until further formal evaluations can take place. Detailed, site-specific recommendations for formal evaluations will be developed in the HPMP and are not part of this study.

Archaeological site locations are considered highly sensitive due to the potential for intentional or accidental damage and looting, should these locations become known to the general public. All site records and figures depicting site locations will be contained in confidential appendices in the inventory report and must be treated as confidential throughout the relicensing process.

Coordination with Other Studies

To the extent feasible, archaeological and built-environment resources field studies will be coordinated with each other and with the Tribal Ethnography Resources Study, and information shared as appropriate. Native American TCPs, while a type of historic property subject to Section 106 of the NHPA, will be documented via consultation, as described in the Part 2: Tribal Ethnography Resources Study.

Cultural field studies should be conducted in a manner that does not affect other sensitive natural resources, and permits will be attained as required. The selected consultant should not violate other federal or state laws or regulations protecting natural resources, including but not limited to the Endangered Species Act and Clean Water Act. Tribes may use natural resources for subsistence or specific ceremonial uses and consultants should avoid affecting those uses or events while conducting studies.

Reporting and Historic Properties Management Plan

The non-privileged results of the study will be reported in Exhibit E of the License Application, which will include a summary of the information and findings of the technical studies. Figures and other pertinent data supporting the summary in Exhibit E will be appended to the License Application. The archaeological records and other sensitive information will be included in a confidential appendix withheld from public disclosure, in accordance with Section 304 (16 United States Code 4702-3) of the NHPA.

It is anticipated that FERC will enter into a programmatic agreement with the Advisory Council on Historic Preservation, OHP, and any other agencies or entities FERC elects to include. One of the programmatic agreement stipulations will be the completion and implementation of an HPMP to be included with the License Application.

Task 1. Records Search & Literature Review for Archaeological Inventory

- a. Conduct archival research at state and local repositories
- b. Review previous surveys, site records, and historic maps
- c. Compile environmental and ethnographic context
- d. Identify previously recorded cultural resources within and near the APE

Task 2. Field Inventory & Survey of APE

- a. Perform pedestrian surveys, subsurface testing, or remote sensing (as needed)
- b. Record archaeological sites, isolates, and historic resources
- c. Document built environment resources (e.g., dams, powerhouses, transmission lines, roads, hunting preserve)
- d. Use GPS/GIS for spatial documentation
- e. Prepare site forms consistent with SHPO standards
- f. Assist, as necessary, with the preparation of agreements with Tribes for Tribal Monitors Coordinate pedestrian surveys with Tribal Monitors
- g. Update and prepare California Department of Parks and Recreation (DPR) 523 Series forms

Task 3. Resource Evaluation

- a. Evaluate identified resources for eligibility for the National Register of Historic Places (NRHP)
- b. Apply NRHP criteria (A–D) and integrity thresholds
- c. Prepare eligibility recommendations and supporting documentation

Task 4. Reporting & Documentation

- a. Prepare technical reports:
 - i. Cultural Resources Inventory Report
 - ii. National Register Evaluation Technical Memorandum
 - iii. Appendix E Summary and confidential summary

- b. Incorporate GIS data, maps, and appendices
- c. Protect confidentiality (e.g., site location protection)

PART 2: Tribal Ethnography Resources Study (CR-2)

With input from a tribal ethnographer, the study will make a good-faith effort to document and support the preservation of the culture, traditions (past and present), and land-use practices of the tribal communities that have an ancestral connection to the land within the study area. The selected firm shall retain a tribal ethnographer and shall represent the District in a professional, courteous, and respectful manner in all communications and interactions with Tribal representatives and state regulatory agencies, and shall conduct all work in a manner that supports positive, collaborative, and culturally respectful relationships.

Archival Research

As needed during the implementation of the study, archival research will be conducted to obtain additional information specific to the prehistory, ethnography, and history of the Project area. The results of the archival research will 1) provide primary data to create a background Native American ethnohistory of the proposed study area; and 2) inform the Tribal resources historic context against which such resources may be evaluated for the National Register.

The consultant will conduct background archival research of the study area.

Consultation with Tribal Governments

The consultant will be expected to support meetings with Tribal governments to provide Project data to Tribal groups, elicit areas of interest, identify appropriate Tribal contacts, and establish protocols for conveying information, including privileged/confidential Tribal information.

Interviews

The consultant will conduct interviews with interested and responsive Tribes to better understand their priorities and perspectives. Individuals to interview will be identified in collaboration with each participating Tribe. The methods and nature of the interviews are expected to vary from person to person. Interview records are similarly likely to be variable regarding privileged/confidential protocols and the Tribal expert's willingness to share. Recording methods (e.g., handwritten notes, video, audio tape) will be determined by consulting with the interviewees.

Documentation and Evaluation

Three main categories of Tribal resources are anticipated, which include 1) Tribal Cultural Properties (TCPs) or places; 2) Tribal Cultural Resources (TCRs); and 3) Tribal government matters. Each category will be documented as appropriate to each resource type. Tribal places may be potential historic properties, places associated with the ancestral past, places related to current gathering and/or hunting practices, or other resource types. Those that qualify as potential historic properties will be documented on California Department of Parks and Recreation (DPR) 523 forms as appropriate and with Tribal permission, while others will be described in the study. All resources will be documented and described and submitted for review to Tribal representatives. National Register evaluation of Tribal resources suitable for DPR 523 documentation will use site-specific procedures to identify historic context of the resource, boundaries, jurisdiction or land ownership, Tribal significance, integrity from a Tribal perspective, and contributing characteristics. Evaluation of other resource types may occur at the managerial or agency level. After documentation is complete, it will be provided for review and comment to the OHP and the Tribes.

Coordination with Other Studies

Other resource areas may have a connection to Tribal resources. This includes not only cultural resources, but also fisheries/aquatics, botanical, wildlife, water resources, and recreation. As needed, the consultant will work to assist other resource experts in identifying Tribal resources with connections to their technical study. Assistance to the cultural resource team is anticipated to aid field identification and documentation of historic Native American resources, potential gathering areas, and other places that may have value to Native American Tribes.

EBMUD understands that Tribal interests extend beyond the resources identified in this study. For this reason, study implementation will be coordinated with both the TERR-1 and TERR-2 studies to ensure wildlife and botanical species with cultural significance within the study area are identified and included in the final reports.

Tribal Ethnography Study Tasks

Task 5. Records Search & Literature Review

- a. Conduct archival research at state and local repositories
- b. Review previous surveys, site records, and historic maps
- c. Compile ethnographic context

Task 6. Interviews and Consultation

- a. Conduct interviews with Native American Heritage Commission-listed Tribes (identified in the Proposed Study Plan) including government representatives, elders, cultural practitioners, and/or community members

- b. Assist EBMUD on a framework for the most constructive and inclusive way to work with Tribes to conduct the interviews and consultation and obtain relevant information

Task 7. Documentation

- a. Ensure Tribal data sovereignty and confidentiality requests are honored
- b. Record information regarding cultural practices, traditional knowledge, and oral and written history to support protection of tribal resources and practices within the APE (the recording methodology should be determined in consultation with the interviewee)
- c. Document concerns, recommendations, and areas of sensitivity
- d. Prepare technical reports
 - (a) Supplement Cultural Resources Inventory Report and National Register Evaluation Technical Memorandum prepared for the Cultural Resources Study (CR-1) with confidential addendum
 - (b) Prepare maps of identified TCPs and TCRs, where necessary and appropriate, and be protective of sensitive privileged/confidential information

PART 3: Data Management and General Guidelines

GIS Data Management

The District will provide baseline GIS data (i.e., Project boundary, facilities locations, and land ownership). Additional GIS datasets will be provided according to a mutually agreed upon schedule between the Consultant and the District.

The following specifications ensure that all spatial, field collected data, and GIS work products produced for this technical study remain fully compatible with the District's subsequent needs, such as generating figures for the relicensing application and integrating products into the District's central GIS database.

For each figure or image (jpg/png) produced, the required GIS work product deliverable will include:

- An ArcGIS Pro map package containing the map and layout, and
- A geodatabase containing the data displayed in the map or layout.

GIS data will be transferred via the District's Project SharePoint site or a secured website provided by the Consultant. Physical media such as disks or flash drives will not be accepted, as they do not comply with District security requirements.

Conducting Studies, Drafting Study Reports, and Presenting Study Results

Studies will be conducted and study reports will be drafted in conformance with the following:

- FERC Regulations for studies: 18 CFR § 5.15 - Conduct of studies
- Study Reports template outline per FERC regulations shown below
- Anticipated Study Plan Determination (SPD) issued by FERC by September 1, 2026
- Scoping Document 2 (SD2) schedule shown below.

A. Study Reports template outline:

- a) Introduction
- b) Study Goals and Objectives
- c) Geographic Scope
- d) Methodology
- e) Study Methods
- f) Study Plan Modifications
- g) Variance from Study Plan Methodology
- h) Results
- i) Conclusion
- j) References

Following filing of the Initial Study Plan and Updated Study Plan, Consultant will prepare and present a PowerPoint slide deck of the study results at the Initial Study Report Meeting and Updated Study Report Meeting per the schedule in the SD2 shown below. For 2-year studies, Consultant will draft a study progress report and present it at the Initial Study Report meeting.

During the course of study plan periods, Consultant, as part of the project team, will participate in and support any Technical Working Group meetings and/or tribal consultation meetings as requested by the District.

SD2 schedule (excerpted)

Responsible Entity	Milestone	Date	FERC Regulation
EBMUD	Conduct First Study Season - typically, spring through fall, as necessary	2027	5.15(a)
EBMUD	File Initial Study Report	9/1/27	5.15(c)(1)
All Stakeholders	Initial Study Report Meeting	9/16/27	5.15(c)(2)
EBMUD	File Initial Study Report Meeting Summary	10/01/27	5.15(c)(3)

EBMUD	Conduct Second Study Season - typically, spring through fall, as necessary	2028	5.15(a)
EBMUD	File Updated Study Report	8/31/28	5.15(f)
All Stakeholders	Updated Study Report Meeting	9/15/28	5.15(f)
EBMUD	File Updated Study Report Meeting Summary	10/2/28	5.15(f)

Task 8. Project Management & Quality Assurance

- a. Maintain project schedule, budget, and deliverables tracking
- b. Conduct internal QA/QC reviews of all products
- c. Ensure compliance with professional standards (e.g., Secretary of the Interior's Standards)
- d. Represent the District in a professional, courteous and respectful manner in all interactions with Tribal representatives and state regulatory agencies
- e. Provide regular status updates to the District project management team
- f. Coordinate deliverable timelines with District FERC study plan coordinator (Kleinschmidt Associates)

D. DELIVERABLES / REPORTS

- a. Specific deliverables are listed by task in Section I.C. (Specific Requirements) of this RFP.
- b. Ensure protection and appropriate labeling of all sensitive and privileged/confidential information and deliverables. Consult with District project management team if unsure of status.
- c. All deliverables in draft, revised draft, and final versions will be submitted in the following format and applies to i) meeting handouts and agendas, ii) meeting summaries, iii) presentations, iv) schedules, v) comment reviews of District- and consultant- produced reports, and vi) technical memorandums, if listed in Section I.C.:
 - i. Native format files, such as Microsoft Word, PowerPoint, etc.;
 - ii. Digital spatial or geographic data, e.g. geographic information system (GIS); and

- iii. Delivery via email or, if the file size exceeds the District's system limits of 25 MB, the District's Project SharePoint site, or a secured website provided by the Consultant. Disks or flash drives will not be accepted because they are not compatible with the security requirements of the District system.
- d. In addition to requirements in the entirety of Section D.2 (Deliverables/ Reports), final version deliverables will be submitted in the following format and applies to i) meeting handouts and agendas, ii) meeting summaries, iii) presentations, iv) schedules, and v) technical memorandums:
 - i. One (1) electronic copy in PDF format covering the entirety of the work product in a text-searchable format and with section bookmarks (only for lengthy documents, or as requested); and
 - ii. Original images of the photographs taken of the Project that are included in the documents.
- e. The following review schedule applies to draft, revised draft, and final version of deliverables for i) comment reviews of District- and consultant- produced reports, and ii) technical memorandums:
 - i. At least 4-weeks ahead of the final deliverable due date, submit a draft for District review,
 - a. Allocate at least two weeks for the District's review of the draft; although, the District could request additional time depending on the size/complexity of the deliverable,
 - ii. Submit a revised draft that responds to District comments,
 - a. Allocate 5 business days for the District's review of the revised draft, and
 - iii. Submit a final that incorporates any District comments on the revised draft.
- f. The following review schedule applies to draft, revised draft, and final version of deliverables for i) meeting handouts and agendas, ii) meeting summaries, iii) presentations, and iv) schedules:
 - i. At least 4 business days ahead of the final deliverable due date, submit a draft for District review,
 - a. Allocate at least 2 business days for the District's review of the draft,
 - ii. Submit a revised draft that responds to District comments,
 - a. Allocate 1 business day for the District's review of the revised draft, and

- iii. Submit a final that incorporates any District comments on the revised draft.

Monthly Progress Reports - One (1) electronic emailed copy to accompany monthly invoices. Progress reports should describe work performed and associated costs per project task.

- i. The invoice shall list the professional fees, including each individual's position title, to substantiate the billing rate.
- ii. Supporting documentation (such as copies of itemized receipts) for reimbursable expenses shall be attached to the invoice.

II. CALENDAR OF EVENTS

EVENT	DATE/LOCATION
RFP Issued	July 13, 2026
Response Due	August 14, 2026 by 4:30 PM
Anticipated Contract Start Date	October 14, 2026

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

E. RFP ACCEPTANCE AND AWARD

- a. RFP responses will be evaluated by the Selection Committee and will be scored and ranked in accordance with the RFP section entitled "Evaluation Criteria/Selection Committee."
- b. 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 level of effort.
- c. 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.

- d. The District has the right to decline to award this contract or any part of it for any reason.
- e. 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.
- f. 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.

F. EVALUATION CRITERIA/SELECTION COMMITTEE

All proposals will be evaluated by the 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 identify qualified Proposers in accordance with the evaluation criteria set forth in this RFP. The Selection Committee will then consider and negotiate pricing with qualified Proposers before awarding the contract. The evaluation of the RFP responses shall be within the sole judgment and discretion of the Selection Committee.

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

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

The Evaluation Criteria are as follows:

	Evaluation Criteria
A.	Technical Criteria: 15 Points Possible In each area described below, an evaluation will be made of the probability of success of, and risks associated with, the RFP response: 1. Professional Services - A comparison will be made of the proposed services with the requirements of this RFP. Credit will be given for convenience, responsiveness, and technical expertise with managing and performing

	technical studies that support a licensing process under FERC's Integrated Licensing Process and demonstrated capability to perform the tasks that meets the objectives of the study and to provide timely deliverables.
B.	Implementation Plan and Schedule: 20 Points Possible An evaluation will be made of the likelihood that the Proposer's implementation plan and schedule will meet the District's schedule. Additional credit will be given for the identification and planning for mitigation of schedule risks which the Proposer believes may adversely affect any portion of the District's schedule.
C.	Relevant Experience: 20 Points Possible RFP responses will be evaluated against the RFP specifications and the questions below: 1. Do the individuals assigned to the project have experience on similar projects? 2. Do the individuals assigned to the project have previous working relationships with Native American Heritage Commission-listed Tribes that have an ancestral interest within the APE (listed in the Study Plan)? 3. Are résumés complete and do they demonstrate backgrounds that would be desirable for individuals engaged in the work the project requires? 4. How extensive is the applicable education and experience of the personnel designated to work on the project?
D.	References (See Exhibit A – RFP Response Packet): 10 Points Possible Provide a minimum of three (3) references as required per Exhibit A. Do the References confirm the Proposer's minimum qualifications and demonstrate completion of comparable scope of services? If a short list process is used for a solicitation, references are only performed on the shortlisted Proposers and the score for reference checks is not included in the preliminary short list score.
E.	Understanding of the Project: 15 Points Possible RFP responses will be evaluated against the RFP specifications and the questions below: 1. Has the Proposer demonstrated a thorough understanding of the purpose and scope of the project? 2. How well has the Proposer identified pertinent issues and potential problems related to the project? 3. Has the Proposer demonstrated that it understands the deliverables the District expects it to provide? 4. Has the Proposer demonstrated a clear understanding of the District's time schedule and can the Proposer meet it?

F.	Methodology: 15 Points Possible RFP responses will be evaluated against the RFP specifications and the questions below: 1. Does the methodology depict a logical approach to fulfilling the requirements of the RFP? 2. Does the methodology match and contribute to achieving the objectives set out in the RFP? 3. Does the methodology interface with the District's time schedule?
G.	Contract Equity Program: 5 Points Possible Proposer shall be eligible for SBE or DVBE preference points if they are a certified small business entity, as described in the guidelines contained in Exhibit A-Contract Equity Program, <u>and</u> they check the appropriate box, requesting preference, in Exhibit A-Proposer Information and Acceptance. Qualified DVBEs and/or SBEs will receive an additional 5 points to their total score.

G. PRICING

- a. Price quotes must be submitted but will not be used to evaluate Proposers' qualifications. Pricing proposals may be considered when selecting a Proposer for contract award. When considering price quotes, the District will consider reasonableness (i.e., does the proposed cost accurately reflect the Proposer's effort to meet requirements and objectives); realism (i.e., is the proposed cost realistic for the scope of services proposed); affordability (i.e., the ability of the District to finance this project); and transparency and thoughtfulness (i.e., are assumptions documented and accounted for, and has the proposer put forth optional services and their costs to address potential challenges).
- b. Prices quoted shall be firm for the duration of any contract that may be awarded pursuant to this RFP.
- c. All prices quoted shall be in United States dollars.
- d. Price quotes shall include any and all payment incentives available to the District.
- e. Proposers are advised that in the evaluation of cost, if applicable, it will be assumed that the unit price quoted is correct in the case of a discrepancy between the unit price and extended price.
- f. Prevailing Wages:

All Contractors proposing on a public works project and all Subcontractors of any tier shall be registered with the State Department of Industrial Relations

pursuant to Section 1725.5 of the Labor Code.

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

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

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

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

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

H. 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.

I. INVOICING

- a. 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.
- b. The District will notify the Service Provider of any invoice adjustments required.
- c. Invoices shall contain, at a minimum, District purchase order or agreement number, invoice number, remit to address, and itemized services description.
 - Invoices shall be itemized to distinguish amounts billed for each task that service provider worked on using a template similar to the example below. If task(s) cover more than a single study plan, tasks should be subdivided for each study plan.

Sample:

Task 1 (description)	Hours	Rate	Amount
Consultant 1	16	\$100	\$1600
Consultant 2	12	\$80	\$960
Total Task 1			\$2560

Task 2 (description)	Hours	Rate	Amount
Consultant 1	9	\$100	\$900
Consultant 2	15	\$80	\$1200
Total Task 2			\$2100

Total invoice	52		\$4660
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- d. The District will pay 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

J. 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 ON CULTURAL RESOURCES STUDY SECTION::

Attn: I-Pei Hsiu, Associate Engineer

EBMUD-Water & Natural Resources Administration

E-Mail: ipei.hsiu@ebmud.com

PHONE: **Error! Reference source not found.** 287-0979

FOR INFORMATION ON TRIBAL ETHNOGRAPHY STUDY:

Attn: Sami Harper, Associate Engineer

EBMUD-Water Resources Planning Division

E-Mail: sami.harper@ebmud.com

PHONE: **Error! Reference source not found.** 287-2068

FOR INFORMATION ON THE CONTRACT EQUITY PROGRAM:

Attn: Contract Equity Office

PHONE: (510) 287-0114

AFTER AWARD:

Attn: I-Pei Hsiu, Associate Engineer

EBMUD-Water & Natural Resources Administration

E-Mail: ipei.hsiu@ebmud.com

PHONE: **Error! Reference source not found.** 287-0979

K. SUBMITTAL OF RFP RESPONSE

- a. At this time, no hardcopy proposals will be accepted. Transmit your RFP response in pdf format and prior to the bid due date/time RFP submittals, in their entirety, shall be emailed to ipei.hsiu@ebmud.com. The District's email has limitations on attachment size. Make sure your response is less than 25 megabytes. If the file exceeds the limit, you will need to send multiple emails. Proposers are solely responsible for ensuring timely delivery of the proposals. The District shall not be responsible for any issues related to transfer of files through email. You may call at (510) 287-0979 to check receipt of the proposal.
- b. All costs required for the preparation and submission of an RFP response shall be borne by the Proposer.

- c. 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.
- d. 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.
- e. 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.
- f. It is understood that the District reserves the right to reject any or all RFP responses.

L. RESPONSE FORMAT

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



EXHIBIT A
RFP RESPONSE PACKET
RFP For Cultural Resources Study RFP Number WNR-2026-01

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

From: _____
(Official Name of Proposer)

RFP RESPONSE PACKET GUIDELINES

- **SUBMITTAL SHALL CONTAIN THE FOLLOWING:**
 - **EXHIBIT A – RFP RESPONSE PACKET**
 - **INCLUDING ALL REQUIRED DOCUMENTATION AS DESCRIBED IN “EXHIBIT A-REQUIRED DOCUMENTATION AND SUBMITTALS”**
 - **EXHIBIT D - IRAN CONTRACTING ACT CERTIFICATION**
 - **REQUIRED FOR SOLICITATIONS OF GOODS OR SERVICES OF \$1,000,000 OR MORE**
- **PROPOSERS THAT DO NOT COMPLY WITH THE REQUIREMENTS, AND/OR SUBMIT AN INCOMPLETE RFP RESPONSE MAY BE SUBJECT TO DISQUALIFICATION AND THEIR RFP RESPONSE REJECTED IN WHOLE.**
- **IF PROPOSERS ARE MAKING ANY CLARIFICATIONS AND/OR AMENDMENTS, OR TAKING EXCEPTION TO ANY PART OF THIS RFP, THESE MUST BE SUBMITTED IN THE EXCEPTIONS, CLARIFICATIONS, AND AMENDMENTS SECTION OF THIS EXHIBIT A – RFP RESPONSE PACKET. THE DISTRICT, AT ITS SOLE DISCRETION, MAY ACCEPT AMENDMENTS/EXCEPTIONS, OR MAY DEEM THEM TO BE UNACCEPTABLE, THEREBY RENDERING THE RFP RESPONSE DISQUALIFIED.**
- **PROPOSERS SHALL NOT MODIFY DISTRICT LANGUAGE IN ANY PART OF THIS RFP OR ITS EXHIBITS, NOR SHALL THEY QUALIFY THEIR RFP RESPONSE BY INSERTING THEIR OWN LANGUAGE OR FALSE CLAIMS IN THEIR RESPONSE. ANY EXCEPTIONS AND CLARIFICATIONS MUST BE PLACED IN THE “EXCEPTIONS/ CLARIFICATIONS” PAGE, NOT BURIED IN THE PROPOSAL ITSELF.**



PROPOSER INFORMATION AND ACCEPTANCE

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

Addendum #	Date

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

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

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

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

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

Street Address Line 1: _____

Street Address Line 2: _____

City: _____ State: _____ Zip Code: _____

Webpage: _____

Type of Entity / Organizational Structure (check one):

☐ Corporation

☐ Joint Venture

☐ Limited Liability Partnership

☐ Partnership

☐ Limited Liability Corporation

☐ Non-Profit / Church

☐ Other: _____

Jurisdiction of Organization Structure: _____

Date of Organization Structure: _____

Federal Tax Identification Number: _____

Department of Industrial Relations (DIR) Registration Number: _____

Primary Contact Information:

Name / Title: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

Street Address Line 1: _____

City: _____ State: _____ Zip Code: _____

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

☐ YES ☐ NO

If so, please list :

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

SIGNATURE: _____

Name and Title of Signer (printed): _____

Dated this _____ day of _____ 20_____



PROPOSAL FORM

Cost shall be submitted per the format on this Proposal Form. 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 Proposer may also add Optional Tasks with activities for foreseeable risks that are not accounted for here or supplemental services that may be beneficial for the District to consider. The unit costs quoted below shall be the cost the District will pay for the term of any contract that is a result of this RFP process.

Description	Hours	Rate	Amount
Consultant 1		\$	\$
Consultant 2		\$	\$
Total			\$



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 and e-mail address;
 - (d) The person's educational background; and
 - (e) The person's relevant experience, certifications, and/or merits
 - (f) As noted above, it is important that the ethnographer assisting with Tribal interactions and obtaining Tribal information have a positive working relationship with the Interested Tribes.
3. **Description of the Proposed Services**: RFP response shall include a description of the terms and conditions of services to be provided during the contract term including response times. The description 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.

4. **Implementation Plan and Schedule:** The RFP response shall include an implementation plan and schedule. In addition, the plan shall include a detailed schedule indicating how the Proposer will ensure adherence to the timetables for the final services.
5. **References:**
- (a) Proposers must use the templates in the “References” section of this Exhibit A – RFP Response Packet to provide references.
 - (b) References should have similar scope, volume, and requirements to those outlined in these specifications, terms, and conditions.
 - Proposers must verify the contact information for all references provided is current and valid.
 - Proposers are strongly encouraged to notify all references that the District may be contacting them to obtain a reference.
 - (c) References must demonstrate the successful completion of technical studies of comparable type and quality as that which is requested in this RFP.
 - (d) The District may contact some or all of the references provided in order to determine Proposer’s performance record on work similar to that described in this RFP. The District reserves the right to contact references other than those provided in the RFP response and to use the information gained from them in the evaluation process.
6. **Exceptions, Clarifications, Amendments:**
- (a) The RFP response shall include a separate section calling out all clarifications, exceptions, and amendments, if any, to the RFP and associated RFP documents, which shall be submitted with the proposer’s RFP response using the template in the “Exceptions, Clarifications, Amendments” section of this Exhibit A – RFP Response Packet. Note that any exceptions or requested modifications to the District’s template agreement must be submitted with the response.
 - (b) **THE DISTRICT IS UNDER NO OBLIGATION TO ACCEPT ANY EXCEPTIONS, AND SUCH EXCEPTIONS MAY BE A BASIS FOR RFP RESPONSE DISQUALIFICATION.**
7. **Contract Equity Program:**
- (a) Every proposer must fill out, sign, and submit the appropriate sections of the Contract Equity Program and Equal Employment Opportunity documents located at the hyperlink contained in the last page of this Exhibit A. Special attention should be given to completing Form P-25, "Employment Data and Certification". Any proposer needing assistance in completing these forms should contact the District's Contract Equity Office at (510) 287-0114 prior to submitting an RFP response.



REFERENCES

RFP For Cultural Resources Study RFP Number WNR-2026-01

Proposer Name: _____

Proposer must provide a minimum of 3 references.

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

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

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

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

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



EXCEPTIONS, CLARIFICATIONS, AMENDMENTS
RFP For Cultural Resources Study RFP Number WNR-2026-01

Proposer Name: _____

List below requests for clarifications, exceptions, and amendments, if any, to the RFP and associated RFP documents, including any exceptions and requested amendments to the Agreement set forth as Exhibit C 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. Professional Liability (also known as Errors and Omissions) Insurance Coverage

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

insurance requirements of this Agreement are sufficient to cover the obligations of the CONTRACTOR.

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

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

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

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

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

Verification of Professional Liability (Errors and Omissions) Insurance Coverage

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

Self-Insured Retention: Amount: \$ _____

Policy Limit: \$ _____

Policy Number: _____

Policy Period: from _____ **to** _____

Insurance Carrier Name: _____

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

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

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

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

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

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

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

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

Verification of Environmental 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 Environmental 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. Watercraft Liability (a.k.a. Marine Liability) Insurance Coverage

- G. 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.
- H. 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.
- I. Minimum Requirements: Watercraft Liability Insurance with minimum limits, as follows:
- | | |
|---------------------------------|-------------|
| Each Claim or Occurrence Limit: | \$2,000,000 |
| Aggregate Limit: | \$2,000,000 |
- J. Coverage must be included for bodily injury and property damage, including coverage for loss of use and/or diminution in property value, and for clean-up costs arising out of, pertaining to, or in any way related to the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of contaminants or pollutants, arising out of, pertaining to, or in any way resulting from any Services performed by CONTRACTOR under this Agreement; including any transportation of hazardous wastes, hazardous materials, or contaminants.
- K. If Coverage is written on a claims-made form, the following shall apply:
4. The retroactive date must be shown and must be before the date of the Agreement or the beginning of the Services.
 5. Insurance must be maintained, and evidence of insurance must be provided for a minimum of three (3) years after completion of the Services.
 6. If coverage is canceled or non-renewed and not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Agreement, CONTRACTOR must purchase an extended reporting period for a minimum of three (3) years after completion of the Services.
- L. Insurance written on a claims-made basis shall include prior acts coverage sufficient to cover the services provided by CONTRACTOR under this Agreement.

Verification of Watercraft 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 Watercraft Liability insurance, as required by this Agreement, including the relevant provisions applicable to all required insurance.

Self-Insured Retention: Amount: \$ _____

Policy Limit: \$ _____

Policy Number: _____

Policy Period: from _____ to _____

Insurance Carrier Name: _____

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

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

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

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

and Completed Operations by or on behalf of CONTRACTOR, in any way related to Services performed under this Agreement.

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

Verification of Excess and/or Umbrella Liability Insurance Coverage

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

Excess/Umbrella Limits: Amount \$ _____

Policy Limit: \$ _____

Policy Number: _____

Policy Period from _____ **to** _____

Insurance Carrier Name: _____

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

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

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

EXHIBIT C

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

THIS Agreement is made and entered into this _____ day of *(month)*, 202_, by and between **EAST BAY MUNICIPAL UTILITY DISTRICT**, a public entity, hereinafter called “DISTRICT,” and *(CONTRACTOR'S FULL LEGAL NAME, BOLD, ALL CAPS followed by type of entity [corporation, etc.])*, hereinafter called “CONTRACTOR.”

WITNESSETH

WHEREAS, DISTRICT requires consulting services for *(need for project)*; and

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

WHEREAS, CONTRACTOR has submitted a proposal to provide consulting services for *(state type of work)* for the *(insert project title)* and CONTRACTOR represents that it has the experience, licenses, qualifications, staff expertise and where necessary the required Department of Industrial Relations (“DIR”) registration to perform said services in a professional and competent manner; and

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

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

ARTICLE 1 - SCOPE OF WORK

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

- 1.7. It is further understood and agreed by the parties that CONTRACTOR in the performance of its obligations under this Agreement is subject to the direction of DISTRICT as to the designation of services to be performed and the results to be accomplished, however, DISTRICT shall have no control over the means, methods, or sequence used by CONTRACTOR for accomplishing the results.
- 1.8. If, in the performance of this agreement, any third persons are employed by CONTRACTOR, such person shall be entirely and exclusively under the direction, supervision, and control of CONTRACTOR. All terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by CONTRACTOR, and DISTRICT shall have no right or authority over such persons or the terms of such employment.
- 1.9. It is further understood and agreed that as an independent contractor, CONTRACTOR and/or CONTRACTOR's assigned personnel shall not have: (1) any entitlement to any compensation or benefit provided to DISTRICT employees; (2) the right to act on behalf of DISTRICT in any capacity whatsoever as agent; or (3) the right to bind DISTRICT to any obligation whatsoever. CONTRACTOR shall not be covered by DISTRICT's worker's compensation insurance; nor shall CONTRACTOR be entitled to compensated sick leave, vacation leave, retirement entitlement, participation in group health, dental, life or other insurance programs, or entitled to other fringe benefits payable by DISTRICT to employees of DISTRICT.

ARTICLE 2 - COMPENSATION

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

ARTICLE 3 - NOTICE TO PROCEED

- 3.1. This Agreement shall become effective upon execution of the second signature. CONTRACTOR shall commence work upon receipt of DISTRICT's Notice to Proceed,

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

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

ARTICLE 4 - TERMINATION

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

ARTICLE 5 -PROJECT MANAGERS

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

hereby commits an average of *(1 to 100)* percent of *(CONTRACTOR Project Manager's name)* time on this project for the duration of the project.

ARTICLE 6 - CONTRACT EQUITY PROGRAM COMPLIANCE

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

(Paragraph 6.2 to be used when there is subcontracting/subconsulting opportunities. Delete 6.2 if not applicable.)

- 6.2. Designated CEP compliance for the duration of this Agreement is listed in **Exhibit D**, which is attached hereto and incorporated herein. CONTRACTOR shall maintain records of the total amount actually paid to each subcontractor. Any change of CONTRACTOR's listed subcontractors shall be subject to approval by DISTRICT's Project Manager.

ARTICLE 7 - INDEMNIFICATION AND INSURANCE

- 7.1. Indemnification

(FOR DESIGN PROFESSIONAL CONTRACTS (ENGINEERS, ARCHITECTS, LANDSCAPE ARCHITECTS, LAND SURVEYORS OR THEIR FIRMS), USE THIS CLAUSE:)

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

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

(OR IF CONTRACT IS NOT WITH A DESIGN PROFESSIONAL (ENGINEERS, ARCHITECTS, LANDSCAPE ARCHITECTS, LAND SURVEYORS OR THEIR FIRMS) USE THIS CLAUSE INSTEAD:)

CONTRACTOR expressly agrees to defend, indemnify, and hold harmless DISTRICT and its Directors, officers, agents and employees from and against any and all loss, liability, expense, claims, suits, and damages, including attorneys' fees, arising out of or resulting from CONTRACTOR's, its associates', employees', subcontractors', or other

agents' negligent acts, errors or omissions, or willful misconduct, in the operation and/or performance under this Agreement.

7.2. Insurance Requirements

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

ARTICLE 8 - NOTICES

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

(insert consulting firm's name)

(insert address)

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

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

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

Director of *(Department)*

P.O. Box 24055

Oakland, CA 94623-1055

Email: *(Insert Project Manager's email)*

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

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

ARTICLE 9 - MISCELLANEOUS

9.1. This Agreement represents the entire understanding of DISTRICT and CONTRACTOR as to those matters contained herein. No prior oral or written understanding shall be of

any force or effect with respect to those matters contained in this Agreement. This Agreement may only be modified by amendment in writing signed by each party.

- 9.2. This Agreement is to be binding on the successors and assigns of the parties hereto. The services called for herein are deemed unique and CONTRACTOR shall not assign, transfer or otherwise substitute its interest in this Agreement or any of its obligations hereunder without the prior written consent of DISTRICT.
- 9.3. Should any part of this Agreement be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement can be interpreted to give effect to the intentions of the parties.
- 9.4. **(For wet signatures:)** 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.
- (For DocuSign:)** The parties agree to execute this Agreement using digital signatures via DocuSign.
- 9.5. This Agreement, including but not limited to formation, interpretation, performance, and the rights and obligations of each party, shall be governed by the laws of the State of California without regard to the conflict of laws principles of California. Venue for any dispute arising out of or related to this Agreement, including but not limited to formation, interpretation, and performance, and the rights and obligations of each party, shall be in Alameda County, California.
- 9.6. DISTRICT's waiver of the performance of any covenant, condition, obligation, representation, warranty or promise in this Agreement shall not invalidate this Agreement or be deemed a waiver of any other covenant, condition, obligation, representation, warranty or promise. DISTRICT's waiver of the time for performing any act or condition hereunder does not constitute a waiver of the act or condition itself.
- 9.7. There shall be no discrimination in the performance of this Agreement, against any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, gender including gender identity or expression, age, marital or domestic partnership status, mental disability, physical disability (including HIV and AIDS), medical condition (including genetic characteristics or cancer), veteran or military status, family or medical leave status, genetic information, or sexual orientation. CONTRACTOR shall not establish or permit any such practice(s) of discrimination with reference to the Agreement or any part. Any violation of this section shall be deemed to be in material breach of this Agreement.

Contractor shall abide by the requirements of 41 CFR §§ 60-1.4(b), 60-300.5(a) and

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

CONTRACTOR shall include the nondiscrimination provisions above in all subcontracts.

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

ARTICLE 10 - TERM

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

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

EAST BAY MUNICIPAL UTILITY DISTRICT

By: _____

*(Name),
(Insert title - Director of Department)*

Date _____

Approved As To Form

By: _____

for the Office of General Counsel

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

By: _____

*(Name),
(Title)*

Date _____

EXHIBIT A
SCOPE OF SERVICES

SCOPE OF SERVICES

East Bay Municipal Utility District
(insert Project Title)

I. CONTRACTOR SERVICES

CONTRACTOR shall provide the following:

Contracted Services

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

Optional Services

(State each task with associated task number)

II. PROJECT SCHEDULE

(List schedule milestones and completion dates)

EXHIBIT B
COMPENSATION

COMPENSATION

East Bay Municipal Utility District (Project Title)

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

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

2.1. Direct Labor

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

2.2. Indirect Costs

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

- Clerical, word processing and/or accounting work.
- Vehicle usage and mileage between CONTRACTOR's office and DISTRICT offices or work locations within DISTRICT service area. For work outside of DISTRICT's service area, DISTRICT approval to charge for vehicle usage and mileage and other travel expenses must be obtained prior to the expenses being incurred.
- Parking. (DISTRICT does NOT provide parking to CONTRACTOR in the DISTRICT Administration Building, located at 375 11th Street, Oakland, California. CONTRACTOR shall be responsible for parking elsewhere).
- Postage, or for certified or registered mail. Extraordinary postage, overnight delivery, or messenger delivery charges must be approved in advance.

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

The above items are illustrative, rather than exhaustive.

2.3. Subcontractor Services

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

2.4. Other Direct Costs

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

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

- Taxis or shuttles are used rather than rental cars whenever cost effective.
- Rental cars are intermediate or compact class only.

2.5. Budget Amounts

<u>Contracted Services</u>	<u>Optional Services</u>	<u>Maximum Cost Ceiling</u>
\$(dollars)	\$(dollars)	\$(dollars)

The Maximum Cost Ceiling shown above is based upon the cost estimate and labor hours attached hereto as **EXHIBIT B-1 – Cost Distribution** and **EXHIBIT B-2 – Labor Distribution*** Costs described above, comprising Direct Labor, Indirect Costs, Subcontractor Services and Other Direct Costs shall be payable up to the Maximum Cost Ceiling as specified herein.

2.6. Billing and Payment

CONTRACTOR shall invoice DISTRICT monthly for the actual costs incurred for work performed during the previous month. Actual costs shall include Direct Labor, Indirect Costs, Subcontractor Services, and Other Direct Costs as specified herein. Actual costs shall be invoiced by task as described in **EXHIBIT A – Scope of Services**. Invoices shall set forth a description of the actual costs incurred and the services performed, the date the services were performed and the amount of time spent rounded to the nearest quarterly hour increment (0.25) on each date services were performed and by whom. Supporting documentation for the invoice shall be organized to clearly identify the task charged and shall be supported by such copies of invoices, payroll records, and other documents as may be required by DISTRICT to authenticate invoiced costs. Copies of all invoices from any subcontractor(s) and outside service(s) shall be attached. ***(Insert the following sentence if paragraph 2.8 below applies and is included in agreement. “Where CONTRACTOR is required by law to pay prevailing wage rates, supporting documentation for such work shall be in accordance with guidelines set forth below and shall include certified payroll reports.”)*** DISTRICT shall pay CONTRACTOR within thirty (30) days, upon receipt of a proper CONTRACTOR invoice, provided that all invoices are accompanied by sufficient cost documentation, and DISTRICT Form P-47 (Subcontractor Payment Report - CEP Participation), to allow the determination of the reasonableness and accuracy of said invoice.

The Maximum Cost Ceiling is in effect for the entire Scope of Services. If the authorized Maximum Cost Ceiling is reached, CONTRACTOR shall complete the

agreed-upon work for the authorized Maximum Cost Ceiling. Labor hours may be reallocated within the tasks without renegotiation of the Agreement with written approval from DISTRICT Project Manager in such a manner so as not to exceed the Maximum Cost Ceiling. In no event shall the Maximum Cost Ceiling be increased unless there is a written amendment of this Agreement.

2.7. Budget Status Reports

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

2.8. Prevailing Wages and Other Requirements for Construction Inspection, and Construction Related Work During Design and Preconstruction Phases of Construction *(Optional Insert – include this paragraph 2.8 and all its subparagraphs if your Scope of Services includes construction, alteration, demolition, installation, maintenance, repair work, or other construction related work during the design or preconstruction phases of construction including but not limited to inspection and land surveying.)*

2.8.1. All contractors and subcontractors of any tier bidding on, or offering to perform work on a public works project shall first be registered with the State Department of Industrial Relations (DIR) pursuant to Section 1725.5 of the Labor Code. No bid will be accepted nor any contract entered into without proof of the contractor and subcontractors' current registration with the DIR (LC § 1771.1).

2.8.2. All public works projects awarded after January 1, 2015, are subject to compliance monitoring and enforcement by the DIR (LC § 1771.4) and all contractors are required post job site notices, "as prescribed by regulation" (LC § 1771.4).

2.8.3. Pursuant to Section 1773 of the Labor Code, the DISTRICT has obtained from the Director of Industrial Relations of the State of California, the general prevailing rates of per diem wages and the general prevailing rates for holiday and overtime work in the locality in which the Work is to be performed, for each craft, classification, or type of worker needed to execute the contract. A copy of the prevailing wage rates is on file with the DISTRICT and available for inspection by any interested party at

www.dir.ca.gov.

- 2.8.4. CONTRACTOR shall post a copy of the general prevailing rate of per diem wages at the jobsite pursuant to Section 1773.2 of the Labor Code.
- 2.8.5. Pursuant to Section 1774 of the Labor Code, CONTRACTOR and any of its subcontractors shall not pay less than the specified prevailing rate of wages to all workers employed in the execution of the contract.
- 2.8.6. CONTRACTOR shall, as a penalty to the State or the DISTRICT, forfeit not more than the maximum set forth in Section 1775 of the Labor Code for each calendar day, or portion thereof, for each worker paid less than the prevailing rates for the work or craft in which the worker is employed under the contract by the CONTRACTOR or by any of its subcontractors. The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which such worker was paid less than the stipulated prevailing wage rate shall be paid to such worker by the CONTRACTOR.
- 2.8.7. General prevailing wage determinations have expiration dates with either a single asterisk or a double asterisk. Pursuant to California Code of Regulations, Title 8, Section 16204, the single asterisk means that the general prevailing wage determination shall be in effect for the specified contract duration. The double asterisk means that the predetermined wage modification shall be paid after the expiration date. No adjustment in the Maximum Agreement Ceiling will be made for the CONTRACTOR's payment of these predetermined wage modifications.
- 2.8.8. CONTRACTOR and each subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed in connection with the Services. The payroll records shall be certified and shall be available for inspection in accordance with the provisions of Section 1776 of the Labor Code. Certified payroll records shall be on the forms provided by the DIR or contain the same information required on the Department's form.
- 2.8.9. For public works projects awarded on or after April 1, 2015, or that are still ongoing after April 1, 2016, no matter when awarded, each CONTRACTOR and subcontractor shall furnish the certified payroll related records as more specifically described above and in Labor Code section 1776 directly to the Labor Commissioner (see LC § 1771.4). These records shall be provided to the Labor Commissioner at least monthly or more frequently if required by the terms of the contract. For exception on projects covered by collective bargaining agreements like a PLA, please

see Labor Code section 1771.4.

- 2.8.10. In the event of noncompliance with the requirements of Section 1776 of the Labor Code, CONTRACTOR shall have 10 days in which to comply subsequent to receipt of written notice specifying in what respects such CONTRACTOR must comply with said Section. Should noncompliance still be evident after such 10-day period, CONTRACTOR shall, as a penalty to the State or the DISTRICT, forfeit the amount set forth in Section 1776 of the Labor Code for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, such penalties shall be withheld from progress payments then due.
- 2.8.11. Pursuant to the provisions of Sections 1810, et seq. of the Labor Code the time of service of any worker employed upon the work shall be limited and restricted to eight hours during any one calendar day, and forty hours during any one calendar week, unless work performed by employees of CONTRACTOR in excess of eight hours per day, and forty hours during any one calendar week, shall be permitted upon compensation for all hours worked in excess of eight hours per day at not less than one and one half times the basic rate of pay.
- 2.8.12. CONTRACTOR shall, as a penalty to the State or the DISTRICT, forfeit the amount set forth in Section 1813 of the Labor Code for each worker employed by CONTRACTOR or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight hours in any calendar day and forty hours in any one calendar week in violation of the provisions of Labor Code, Sections 1810, et seq.
- 2.8.13. CONTRACTOR and every subcontractor shall keep an accurate record showing the name of and the actual hours worked each calendar day and each calendar week by each worker employed by him in connection with the Services; the record shall be kept open at all reasonable hours to the inspection of the DISTRICT and to the Division of Labor Standards Enforcement of the State of California.
- 2.8.14. In the performance of a public works contract, CONTRACTOR and any subcontractor shall comply with the provisions concerning the employment of apprentices in Section 1777.5 of the Labor Code and any amendments thereof. In the event CONTRACTOR or any subcontractor willfully fails to comply with this requirement CONTRACTOR or subcontractor shall be subject to the penalties for noncompliance in Labor Code section 1777.7.
- 2.8.15. CONTRACTOR and every subcontractor shall post at the workplace and

comply with all required wage related workplace postings. Copies of the required postings may be downloaded or ordered electronically from the Department of Industrial Relations website at <http://www.dir.ca.gov/wpnodeb.html>.

SAMPLE

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

EXHIBIT B-1 – Cost Distribution

East Bay Municipal Utility District
(Project Title)

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

* ODCs = Other Direct Costs.

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

*** *Insert hourly rate.*

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

EXHIBIT B-2 – Labor Distribution*

East Bay Municipal Utility District
(Project Title)

	CONTRACTOR				Subcontractors***						Total
					Subcontractor # 1			Subcontractor # 2			
	Project Manager	Project Engineer	Drafting	Subtotal	Project Engineer	Assist. Engineer	Subtotal	Project Engineer	Assist. Engineer	Subtotal	
I. Contracted Services											
Task 1.1:											
Task 1.2:											
Task 2.1:											
Task 2.2:											
Subtotal I.											
II. Optional Services											
Task 3:											
Task 4:											
Subtotal II.											
TOTAL											

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

EXHIBIT C

INSURANCE REQUIREMENTS

Included in Request for Proposal

EXHIBIT D

Contract Equity Program COMPLIANCE

Required for all contracts over \$30K.

See [Contract Equity Guidelines and Forms](#)

CEP COMPLIANCE
East Bay Municipal Utility District
(Project Title)

FIRMS UTILIZED

MINIMUM
AMOUNT*

MINIMUM
PERCENT**

*(Name of
Subcontractor's firm)*

\$(dollars)

(1 to 99)

*(Name of
Subcontractor's firm)*

\$(dollars)

(1 to 99)

TOTAL

\$(dollars)

(1 to 99)

* Does not include CONTRACTOR's markup. *(Include this footnote only if your contract includes markup on subcontractors.)*

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



EXHIBIT D

IRAN CONTRACTING ACT CERTIFICATION

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

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

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

CERTIFICATION FOR PARAGRAPH 1:

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

Firm: _____

By: _____ Date: _____
(Signature of Bidder)

Title: _____

Signed at: _____ County, State of: _____

OR

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



EXHIBIT E

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

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

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