

EAST BAY MUNICIPAL UTILITY DISTRICT

REQUEST FOR QUOTATION (RFQ) No. 2616 for INDUCTIVELY COUPLED PLASMA MASS SPECTROMETER WITH AUTOSAMPLER

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For complete information regarding this project, see RFQ posted at <https://www.ebmud.com/business-center/materials-and-supplies-bids/current-requests-quotation-rfqs/> or contact the EBMUD representative listed above. Please note that prospective bidders are responsible for reviewing this site during the RFQ process, for any published addenda regarding this RFQ.

Bids Due

by

2:00 p.m.

on

March 18, 2026

All bid submissions hand delivered or mailed (USPS, FedEx, UPS, etc.) to the address or PO Box noted below and must be received no later than 2:00 p.m. on the bid due date.

RESPONSE DELIVERED BY SERVICE (UPS, FedEx, DHL, etc., during business hours: 8:00 AM – 3:30 PM only) to:	RESPONSE DELIVERED BY MAIL (U.S. Postal Service) to:	RESPONSE HAND-DELIVERED (during business hours: 8:00 AM – 4:00 PM only)
EBMUD–Purchasing Division INDUCTIVELY COUPLED PLASMA MASS SPECTROMETER WITH AUTOSAMPLER – RFQ 2616 375 11 th Street Oakland, CA 94607	EBMUD–Purchasing Division INDUCTIVELY COUPLED PLASMA MASS SPECTROMETER WITH AUTOSAMPLER – RFQ 2616 P.O. Box 24055 Oakland, CA 94623	EBMUD–Purchasing Division INDUCTIVELY COUPLED PLASMA MASS SPECTROMETER WITH AUTOSAMPLER – RFQ 2616 Purchasing Office 375-11 TH Street, 1 st Floor Oakland, CA 94607

EAST BAY MUNICIPAL UTILITY DISTRICT

RFQ No. 2616

for

INDUCTIVELY COUPLED PLASMA MASS SPECTROMETER WITH AUTOSAMPLER

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I. STATEMENT OF WORK**A. SCOPE**

It is the intent of these specifications, terms, and conditions to describe requirement to furnish, install, test and validate one (1) new bench top inductively coupled plasma mass spectrometer with autosampler f.o.b. destination to the District's SD-1 Laboratory located at 2020 Wake Avenue, Oakland, CA 94607.

East Bay Municipal Utility District (District) intends to award a contract to the lowest cost bidder(s) whose response meets the District's requirements.

B. BIDDER QUALIFICATIONS**1. Bidder Minimum Qualifications**

- a. Bidder, bidder's principal, or bidder's staff shall have been regularly engaged in the business of providing inductively coupled plasma mass spectrometers for at least ten (10) years.
- b. Bidder shall be a certified and/or authorized manufacturer and dealer of these instruments.
- c. Bidder shall possess all permits, licenses, and professional credentials necessary to supply product and perform services as specified under this RFQ.

C. SPECIFIC REQUIREMENTS

All products shall be in new and unused condition and shall be of the most current and up to date model.

1. GENERAL – QUADROPOLE ICP-MS INSTRUMENT

The vendor shall furnish, install, test and validate one new bench top inductively coupled plasma mass spectrometer (ICP-MS) for trace metals analysis. The ICP-MS must satisfy the specifications outlined in the Criteria Table. The instrument will detect metals in source water, ground water, drinking water, wastewater, salt water and industrial waste for analysis at concentrations ranging from 0.4 ppb to 1000 ppb. The instrument acceptance process shall include calibration of analytes of interest in the Table for EPA 200.8. The method verification will include running standards at the required method reporting limits for drinking water and wastewater compliance, demonstrating instrument check blanks

below the Method Detection Limits (MDLs) in the Table and provide an Initial Demonstration of Capability (IDOC) that meets all method quality control criteria.

The system must include an enclosed autosampler with connection to ventilation, a liquid sample introduction system, an RF argon plasma ion source, a quadrupole based cell to eliminate spectroscopic interferences with KED using collision gases, quadrupole mass filter, simultaneous dual stage discrete dynode detector and at least two-cone plasma interface, all under computer control.

Note: EBMUD will provide an I7 WIN11 PC with 32gb RAM that the bidder will need to work with District IT to install the software on site during instrument installation.

The table below is divided into sections of instrument criteria. For the ‘Location in Proposal’ field, please indicate where in the proposal the information is provided that indicates this criteria is met (a page # and paragraph or section). For those items that are not shaded in the last field, please also provide a reference to an attachment of raw data or other instrument documentation that indicates the item criteria is met and a customer reference that currently uses the instrument in this configuration. For example, Section 2b requires documentation and a reference to confirm MDLs have been met. Please provide the raw data and a summary of tabulated MDL data from the instrument with a date and time stamp in a spreadsheet file. Please use a minimum amount of documentation to confirm availability of these criteria, such as a single page.

Section	Item	Location in Proposal	Data Included
2	<u>ICP-MS GENERAL SYSTEM REQUIREMENTS</u>		
a	System must be fully compliant with US EPA methodology for Method 200.8		
b	Based on analyzing MB & low-level spikes using the calibration in Table 1, the system must meet or exceed the MDLs in Table 1 for both Water & Wastewater		
c	Fully automated system startup, shutdown and optimization and computer-controlled instrument tuning for optimum performance. This includes software startup & shutdown of equipment used for cooling the system, such as a chiller or other heat exchange device		
d	Quadrupole must be able to scan a minimum of 3000 amu/sec to achieve maximum productivity from transient signals when jumping between light masses and high masses		
e	Quadrupole resolution settings are dynamically scanned as each element is analyzed		
f	Mass range must be at least 4 to 260 amu or greater		
g	Remote service trouble shooting and remote operation of system		
h	All sample introduction, analytical system, data acquisition, method validation and quality control operations using a single software program		
i	Full system must use single-phase power and remain in specification temperature range of 10 to 30°C at up to 2°C per hour		
j	System must be able to be sufficiently cooled in laboratory temperatures below 30°C		
k	Software automation available to optimize operating conditions and pass tune with each batch		

INDUCTIVELY COUPLED PLASMA MASS SPECTROMETER WITH AUTOSAMPLER

Section	Item	Location in Proposal	Data Included
l	System must be able to calibrate, detect and use correction equation for 1/2 masses and detection of Nd, Sm, Gd, Dy		
3	<u>SAMPLE INTRODUCTION</u>		
a	Sample introduction system has concentric nebulizer, cyclonic or double pass spray chamber, quartz injector and no o-rings		
b	Sample introduction uses a computer controlled integral peristaltic pump. Must be integrated within the ICP-MS system		
c	System is configured for automated addition of internal standards to all samples and standards		
d	Entire torch and injector assembly can be removed and installed by hand in a tool-less fashion		
e	Cone and torch apparatus single orientation or one fit-type for ease of assembly		
f	Fully automated one touch X, Y, Z torch alignment		
g	No carryover >MDL to subsequent samples, standards and blanks from samples or standards with concentrations up to 1000 ppb		
h	Linear Dynamic Range up to 1000 ppb		
i	Sample introduction system is capable of providing an aerosol as well as liquid dilution.		
4	<u>ION SOURCE AND RF GENERATOR</u>		
a	Computer controlled RF generator allows for automatic control of torch ignition, shutdown, and system warm up		
b	Allows independent adjustment of the ion optic parameters and the plasma conditions		
5	<u>PLASMA INTERFACE</u>		
a	Design with rapid mounting and removal cone design, easily accessible from the front of the instrument		
b	Mechanism for complete separation of ions from photons and neutrals either with 90 degree bend of ion path or a chicane , making the cell and mass analyzing quadrupole completely maintenance free		
6	<u>COLLISION CELL</u>		
a	System must incorporate a collision cell with two modes of operation: Standard Mode and Collision Cell Mode with KED and the ability to utilize a wide variety of gases for the life of instrument with no degradation to the gas channels, turbo pump or cell		
b	In Standard Mode, the collision cell must be able to operate with no gas and no energy barrier for optimal signal-to-noise performance on elements with any interference		
c	In Collision Cell Mode, the collision cell must be able to operate as a passive ion guide with an energy barrier at the cell exit for KED. The flow and optimization of the gases shall be under full operator control		
d	Instrument provides transition into and out of collision cell mode and complete stability in <3 seconds		
7	<u>QUADRUPOLE MASS ANALYZER</u>		

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Section	Item	Location in Proposal	Data Included
a	Per EPA methods requirements, the quadrupole must be able to be autotuned or mass calibrated on a minimum of 5 elements (Be, Co, In, Mg, Pb), providing a printed mass calibration report with all elements. The tune and mass calibration must be compliant with EPA 200.8 and pass relative response and peak shape criteria		
b	The instrument has the ability to autotune by optimizing instrument parameters based on current operating conditions		
8	<u>ION DETECTOR</u>		
a	The ion detector must be a simultaneous dual-stage discrete dynode electron multiplier, providing element concentration calibration over 11 orders of magnitude (from 0.1 cps to > 1 e10 cps) dynamic range in a single scan using both analog and pulse ion counting mode, and offer protection against overload in both pulse counting and analog modes.		
b	The dual-stage detector assembly must come standard with the system		
9	<u>SOFTWARE</u>		
a	Must operate under MS Windows 11, 64-bit, network environment		
b	Must generate csv or other data file types that allow for import into LIMS		
c	Has routine maintenance alerts. Operator can schedule user defined alerts for continued operations		
d	Has method development wizards and pre-set methods for EPA 200.8 that calibrate and report elements of interest		
e	Has correction factors pre-programmed to account for common m/z interferences		
f	Capable of adjusting number of scans and replicates per sample		
g	Has the ability to use and apply corrections for multiple internal standards		
h	Has real time graphics with ability to display transient and continuous signal profiles		
i	Software has QC protocol limits on measured values, allowing the analyst to define when and how actions are taken, and to specify a second QC action for automatic operation in the event that the first action fails. Option must include pause, rerun, recalibrate, ignore.		
j	Software allows for creation of custom QC types & names with applied limits and action taken due to failures		
k	The system software shall support the following calibration curve fit modes for quantitative analysis, individually selectable per element:		
	- Linear least squares		
	- Method of standard additions (Matrix Matched calibration)		
	- Linear forced-through-zero least squares		
l	Software controls automatic selection of collision cell gas when mixed mode is specified within a single method		
m	Computer controlled automated optimization of collision cell gas flow		
n	Software allows for adding samples to sequence during analysis, including recalculating & inserting bracketing QC at designated frequency.		
n	Recalculates bracketing QC frequency based on corrective actions, such as reruns of samples (unknowns) and batch QC.		
o	Software must be capable of supporting an auto dilution system that can either be used or bypassed throughout an analytical run		

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Section	Item	Location in Proposal	Data Included
p	Software must support automated dilutions and reanalysis for samples out of range		
q	Per EPA methods requirements, the time and date must be printed on each data sheet or report of results		
r	Software reports can be built to contain the EBMUD Logo, Software version, comments field and can be modified by end user by moving or adding tables, fields/columns		
s	Software must allow for reprocessing of stored data without re-running samples for changes of calibration points, internal standard points or curve fit mode, including an update/change to the QC type. All raw data (including mass calibration, tuning, detector settings, sample schedules, data acquisition, data processing and reporting) must be retrievable.		
t	All analytical raw data must be retained and stored, encrypted to prevent tampering per US EPA requirement to support a complete data audit trail		
u	Be capable of storage and retrieval of instrument run parameters, raw data and reports		
v	Individual raw data sample reports on a single page to include:		
	Analyte, Mass, associated internal standard, instrument mode, concentration, units, replicate RSD, CPS, % Rec, Limits of MDL, factor of MDL or recovery, QC Flag, separate table with Internal Std results		
w	Software calculations for % recovery, RPD on programmed and custom QC types, including % recovery & RPD on LCSD, MSD		
x	Software capable of generating Reports for Tune Report, Calibration, Sample Queue (Run Sequence), Quality Control Sample and Unknown Sample with autosampler position displayed on Sample Sequence and Sample Raw Data reports		
11	<u>AUTOSAMPLER / SAMPLE INTRODUCTION</u>		
a	The system must include a random access auto sampler with a fast type sample loop introduction system		
b	Autosampler must have designated locations for QC standards in 125 ml vessels		
c	Autosampler must have at least 80 locations for samples in 50 ml vessels (30mm X 115mm)		
d	Instrument software must allow for changing autosampler probe depth for both standards and samples. Probe depth settings for standards and samples must be independent and definable in the software		
e	Autosampler must include a full enclosure to prevent contamination. Enclosure must allow for active venting to a fume extraction snorkel		
f	Autosampler must include an automated liquid dilution system that will dilute and reanalyze samples based on analyte concentrations specified by the user		
12	<u>CALIBRATION AND DETECTION</u>		
a	The vendor shall demonstrate that the instrument can meet or exceed the MDLs in Table 1 in standard and collision cell modes.		
b	The vendor shall demonstrate that the instrument can be calibrated at the concentrations in Table 2 in standard and collision cell modes.		
c	Calibration calculation of Relative Error per point and RSE for the set of standards & display on calibration report, able to set limits on each with correction actions		
13	<u>DELIVERY AND INSTALLATION</u>		

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Section	Item	Location in Proposal	Data Included
a	The vendor will deliver all instrument components within two (2) calendar months of being notified of the award of contract.		
b	The District will notify the vendor when all instrument components are delivered. Within ten (10) working days of such notification, the vendor will begin installation and testing of the instrument. The District will be responsible only for providing utility connections at the instrument location and an adequate laboratory environment (for example: power, vent, water, room temperature control and gases). Before arriving at the laboratory for installation, the vendor will notify the EBMUD contact of the exact needs. The vendor will supply all parts and accessories necessary to connect, mount and put in operation the specified equipment.		
c	The vendor will provide either a cart or wheeled table to support both the instrument and the autosampler/enclosure system. The table should be coated to prevent corrosion of up to 10% acid concentrations.		
d	Upon installation, the vendor shall demonstrate that the instrument can achieve all EPA method requirements for EPA 200.8. The vendor shall demonstrate that the instrument can meet or exceed the MDLs in standard and collision cell modes in Table 1.		
14	<u>TRAINING</u>		
a	Vendor will provide at the time of installation a minimum of three (3) days of training for two analysts. Training shall include instrument operation. At the end of training, District personnel shall be capable of operating the instrument and performing data processing independent of the vendor optimization, tuning, trouble-shooting and method development as well as use of the system software.		
b	Training will be completed within one week of successful installation.		
15	<u>ACCEPTANCE</u>		
	After the system is installed, the vendor must demonstrate the ability of the system to meet the specifications in this proposal and verify the method detection limits (MDLs) list in Table 1. The MDL verification procedure consists of analysis of a reagent blank fortified at 1-4 times the MDL listed in Table 1. All analytes of interest must be detected in the MDL verification samples at S/N > 3 and can be qualitatively identified from their relative ion abundance. An Initial Demonstration of Capability must provide instrument check blanks below the MDLs in Table 1, low level standard at the Cal 1 level to confirm low calibration standard + 50% of expected value and four spike blank quality control samples that are within +10% of expected value. If the instrument fails to verify specified detection limits or an IDOC, the vendor shall have thirty (30) days to retest the instrument. After each adjustment, the vendor shall demonstrate the instrument's ability to verify the detection limits, instrument check blanks and IDOC for all of the analytes in Table 1. The vendor must provide comma separated values (CSV) or tab separated of fixed format text files from an MDL study and IDOC that is capable of uploading into the Laboratory Information Management System (LIMS). If the instrument again fails the detection limit, IDOC or data upload criteria, the vendor shall remove the instrument at the vendor's expense. The District will then consider an instrument from the next lowest responsive bid.		
16	<u>PAYMENT</u>		

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Section	Item	Location in Proposal	Data Included
a	Payment for the instrument will be made after and is contingent upon successful installation by the vendor and training of and validation by EBMUD laboratory staff		
17	<u>MAINTENANCE AND SERVICE CONTRACT</u>		
a	The vendor shall supply a recommended maintenance schedule with a calendar that lists all part names and part numbers for ordering purposes		
b	The instrument shall be warrantied or covered under a service contract for the initial five years following installation and validation The warranty shall include one preventative maintenance visit per year and cover all parts, labor and travel associated with maintenance and repair for the instrument and autosampler and any installed support equipment.		
c	Upon receiving a service request, the vendor will provide a technician on site within two (2) business days to conduct the necessary service		
d	The vendor will have maintenance and applications personnel available for telephone consultation with District staff to assist in solving operating and maintenance problems during normal business hours (8AM-5PM UTC-8) Monday through Friday		
e	The vendor shall provide any maintenance or service on the full system configuration to include the sample introduction, including the autosampler, and analytical instrument and not subcontract to a third party		
f	The vendor shall provide free software upgrades/updates (major or minor), as they become available, while the instrument/autosampler is under warranty or under a maintenance contract		
18	<u>SPARE PARTS AND TOOLS</u>		
a	The vendor shall supply all tools needed to conduct routine maintenance on the instrument and autosampler		
b	The vendor shall supply the following replacement parts to cover the warranty period based on a vendor recommended maintenance schedule		
	i. Sampling and skimmer cones		
	iv. Argon Plasma Torch		

REPORT #1 – Performance Report/Tune Check Report

 US EPA Tune Check Report

Mass	Peak Height	Axis	Axis (Req)	Axis (Flag)	W-50%	W-5%	W-5% (Flag)	W-X% (Req)
59	289331.21	58.95	58.90 - 59.10		0.66	0.827		0.850
115	470916.14	114.95	114.90 - 115.10		0.62	0.784		0.850
206	111029.27	206.00	205.90 - 206.10		0.54	0.825		0.850
207	91308.48	207.00	206.90 - 207.10		0.54	0.774		0.850
208	223835.95	208.00	207.90 - 208.10		0.57	0.839		0.850

Integration Time [sec] 0,1
 Acquisition Time [sec] 212,5
 Y Axis Linear

Tune Parameters

Plasma Parameters

Plasma Mode		Nebulizer Gas	1.06 L/min	Makeup Gas	0.00 L/min
RF Power	1550 W	Option Gas		Auxiliary Gas	0.90 L/min
RF Matching	1.40 V	Nebulizer Pump	0.10 rps	Plasma Gas	15.0 L/min
Sample Depth	8,0 mm	S/C Temp	2 °C		

Lens Parameters

Extract 1	0,0 V	Omega Lens	11,9 V	Deflect	14,0 V
Extract 2	-200,0 V	Cell Entrance	-30 V	Plate Bias	-35 V
Omega Bias	-100 V	Cell Exit	-50 V		

Cell Parameters

Use Gas	No	3rd Gas Flow		Energy Discrimination	5,0 V
He Flow	0,0 mL/min	OctP Bias	-8,0 V		
H2 Flow		OctP RF	200 V		

QP Parameters

Mass Gain	115	Axis Gain	0,9983	QP Bias	-3,0 V
Mass Offset	125	Axis Offset	-0,05		

Hardware Settings

Torch

Torch H	0,0 mm	Torch V	0,0 mm
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EM

Discriminator	4,3 mV	Analog HV	2112 V	Pulse HV	1299 V
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Scan Type

—

REPORT #2 – Sample Sequence

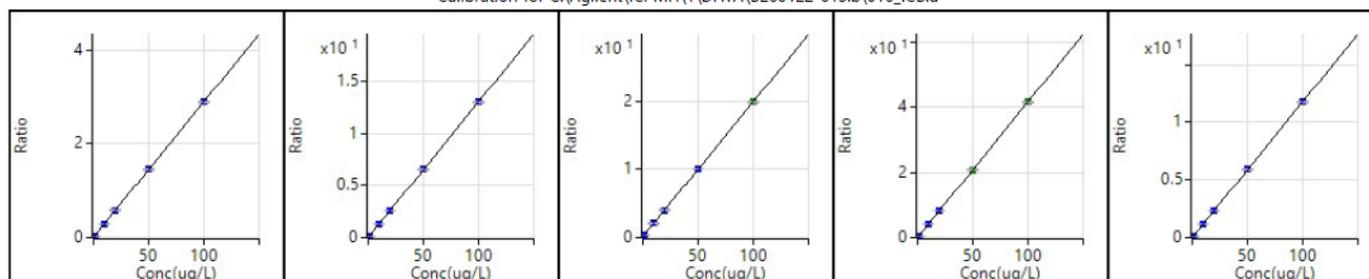
Batch Summary Report

Batch Folder: C:\Agilent\ICPMH\1\DATA\B260121-009.b\
 Analysis File: B260121-009.batch.bin
 Tune Step: #1 No Gas

	Rjct	Acq. Date-Time	Data File	Sample Name	Type	Level	Total Dil.
1		1/21/2026 9:58:19 AM	001CALB.d	0	CalBlk	1	1.0000
2		1/21/2026 10:01:02 AM	002CALB.d	0	CalBlk	1	1.0000
3		1/21/2026 10:03:24 AM	003CALS.d	Cal Std 1 Low	CalStd	2	1.0000
4		1/21/2026 10:05:43 AM	004CALS.d	Cal Std 2 1	CalStd	3	100.0000
5		1/21/2026 10:08:10 AM	005CALS.d	Cal Std 3 10	CalStd	4	10.0000
6		1/21/2026 10:10:35 AM	006CALS.d	Cal Std 4 20	CalStd	5	5.0000
7		1/21/2026 10:12:58 AM	007CALS.d	Cal Std 5 50	CalStd	6	2.0000
8		1/21/2026 10:15:16 AM	008CALS.d	Cal Std 6 100	CalStd	7	1.0000
9	On	1/21/2026 10:17:30 AM	009SMPL.d	Rinse	Sample		1.0000
10		1/21/2026 10:19:37 AM	010_ICB.d	B260121-009-CCB-01	ICB		1.0000
11		1/21/2026 10:21:47 AM	011_ICV.d	B260121-009-ICC-01	ICV		1.0000
12		1/21/2026 10:23:54 AM	012_QCS.d	B260121-009-QCSI-01	QCS		1.0000
13	On	1/21/2026 10:26:02 AM	013SMPL.d	Rinse	Sample		1.0000
14		1/21/2026 10:28:10 AM	014_LRB.d	B260120-024-MB-01	MB		1.0150
15		1/21/2026 10:30:20 AM	015_LOD.d	B260120-024-LOD-01	LOD		1.0160
16		1/21/2026 10:32:27 AM	016LOQ.d	B260120-024-LOQ-01	LOQ		1.0160
17		1/21/2026 10:34:35 AM	017_LFB.d	B260120-024-LCS-01	LCS		1.0200
18	On	1/21/2026 10:36:41 AM	018_LFB.d	B260120-024-LCS-01	LCS		1.0200
19		1/21/2026 10:38:51 AM	019LFMD.d	B260120-024-LCSD-01	LCSD		1.0200
20	On	1/21/2026 10:40:57 AM	020LFMD.d	B260120-024-LCSD-01	LCSD		1.0200
21	On	1/21/2026 10:43:07 AM	021SMPL.d	Rinse	Sample		1.0000
22		1/21/2026 10:45:15 AM	022_CCB.d	B260121-009-CCB-02	CCB		1.0000
23		1/21/2026 10:47:25 AM	023_CCV.d	B260121-009-CCV-01	CCV		1.0000
24	On	1/21/2026 10:49:31 AM	024SMPL.d	Rinse	Sample		1.0000
25	On	1/21/2026 10:51:41 AM	025SMPL.d	Rinse	Sample		1.0000
26		1/21/2026 10:53:48 AM	026_ARF.d	C043294-01	AllRef		1.0150
27		1/21/2026 10:55:59 AM	027_LFM.d	C043294-01MS	MS		1.0200

REPORT #3 – Calibration Report

Calibration for C:\Agilent\ICPMH\1\DATA\B260122-015.b\010_ICB.d



53 Cr [He]

ISTD: 45 Sc

$y = 2.886E-2 x + 7.485E-3$

R 1.0000

%RSE 4.5

DL 0.04359

BEC 0.2594

55 Mn [He]

ISTD: 45 Sc

$y = 1.300E-1 x + 1.286E-3$

R 1.0000

%RSE 0.7

DL 0.005382

BEC 0.009891

56 Fe [He]

ISTD: 45 Sc

$y = 1.978E-1 x + 1.087E-1$

R 1.0000

%RSE 10.4

DL 0.04397

BEC 0.5495

59 Co [He]

ISTD: 45 Sc

$y = 4.158E-1 x + 3.643E-4$

R 1.0000

%RSE 1.9

DL 0.000363

BEC 0.000876

60 Ni [He]

ISTD: 45 Sc

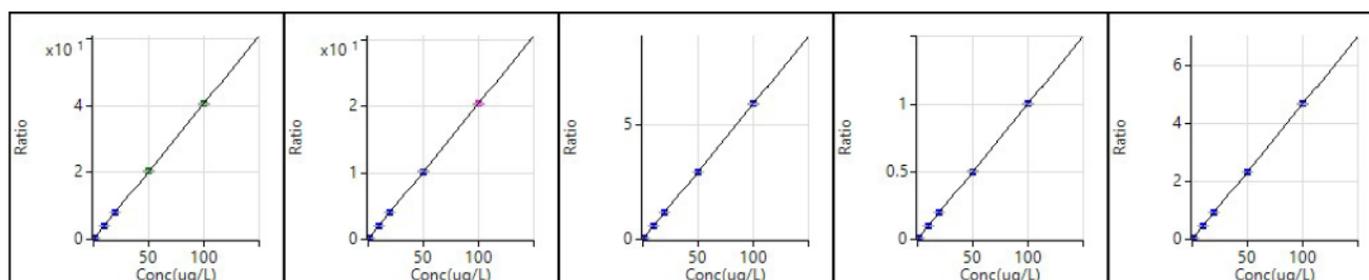
$y = 1.176E-1 x + 1.685E-3$

R 1.0000

%RSE 1.4

DL 0.006154

BEC 0.01432



63 Cu [He]

ISTD: 72 Ge

$y = 4.056E-1 x + 1.913E-2$

R 1.0000

%RSE 5.8

DL 0.007518

BEC 0.04716

65 Cu [He]

ISTD: 72 Ge

$y = 2.043E-1 x + 8.629E-3$

R 1.0000

%RSE 4.6

DL 0.003949

BEC 0.04224

66 Zn [He]

ISTD: 72 Ge

$y = 5.886E-2 x + 6.552E-3$

R 1.0000

%RSE 1.5

DL 0.02381

BEC 0.1113

67 Zn [He]

ISTD: 72 Ge

$y = 1.000E-2 x + 9.645E-4$

R 1.0000

%RSE 5.5

DL 0.06715

BEC 0.09644

68 Zn [He]

ISTD: 72 Ge

$y = 4.656E-2 x + 4.944E-3$

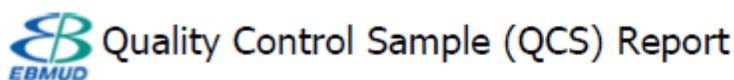
R 1.0000

%RSE 5.5

DL 0.0346

BEC 0.1062

REPORT #4 – Sample Reports



Sample Name B260122-015-QCS1-01
File Name 012_QCS.d
Data Path Name C:\Agilent\ICPMH1\1\DATA\B260122-015.b
Acq Time 1/22/2026 10:15:03 AM
Sample Type QCS
Autocamper Dilution 1.0000
Total Dilution 1.0000
Comment —
ISTD Ref FileName 002CALB.d
Sample GC Pass/Fail Pass
ISTD GC Pass/Fail Pass
Operator to

QC Analyte Table

Name	Mass	ISTD	Tune	Conc.	Units	RSD	CPS	Exp/Val	%Rec	%Low	%High	QC Flag
Be	9	45	No Gas	49.8806	ug/L	0.1	255774.22	50	99.8	90	110	
Al	27	45	He	51.5215	ug/L	1.1	30051.59	50	103.2	90	110	
V	51	45	He	48.6915	ug/L	0.2	875511.13	50	97.4	90	110	
Cr	52	45	He	48.5620	ug/L	0.7	1122059.64	50	97.1	90	110	
Mn	55	45	He	48.2372	ug/L	0.2	624556.57	50	96.5	90	110	
Co	59	45	He	50.0130	ug/L	0.3	2071500.33	50	100	90	110	
Ni	60	45	He	48.0243	ug/L	0.3	562722.51	50	96	90	110	
Cu	65	72	He	50.0062	ug/L	0.3	787657.00	50	100	90	110	
Zn	66	72	He	50.2635	ug/L	0.7	228397.46	50	100.5	90	110	
As	75	72	He	49.1676	ug/L	0.4	152906.35	50	98.3	90	110	
Se	78	72	He	49.7793	ug/L	1.3	10944.04	50	99.6	90	110	
Mo	98	103	He	49.2485	ug/L	0.7	1255473.60	50	98.5	90	110	
Ag	107	103	He	49.3681	ug/L	0.3	2627902.95	50	98.7	90	110	
Cd	111	115	He	47.4429	ug/L	0.3	365164.80	50	94.9	90	110	
Sb	121	115	He	49.5047	ug/L	0.6	1035162.56	50	99.2	90	110	
Ba	137	159	He	49.4300	ug/L	0.3	363945.51	50	98.9	90	110	
Tl	205	159	He	48.8099	ug/L	0.6	4455582.74	50	97.6	90	110	
Pb	208	159	He	49.1378	ug/L	0.2	5979885.04	50	98.3	90	110	

QC ISTD Table

Name	Mass	Tune Mode	CPS	CPS RSD	Ref CPS	% Rec	%QC Low	%QC High	QC Flag
Sc	45	No Gas	1547868.34	0.8	1534227.82	100.89	60	125	
Sc	45	He	99601.47	0.4	97551.63	102.1	60	125	
Ge	72	No Gas	486056.86	0.3	490503.39	99.09	60	125	
Ge	72	He	77036.98	0.5	75986.05	101.38	60	125	
Rh	103	He	1897236.52	0.3	1881911.87	100.81	60	125	
In	115	He	823626.65	0.3	814060.13	101.18	60	125	
Tb	159	He	2232462.97	0.5	2235828.52	99.85	60	125	



Method Blank (MB) Report

Sample Name B260106-013-MB-01
File Name 014_LRB.d
Data Path Name C:\Agilent\ICPMH\1\DATA\B260107-009.b
Acq Time 1/7/2025 9:24:08 AM
Sample Type MB
Autosampler Dilution 1.0000
Total Dilution 1.0150
Comment —
ISTD Ref FileName 002CALB.d
Sample QC Pass/Fail Fail
ISTD QC Pass/Fail Pass
Operator to

GC Analyte Table

Name	Mass	ISTD	Tune	Conc.	Units	RSD	CPS	2.2x MDL	QC Flag
Be	9	45	No Gas	-0.0005	ug/L	N/A	10.00	0.0528	
Al	27	45	He	4.2242	ug/L	4.7	2392.43	3.3	MB > 2.2 * MDL
V	51	45	He	-0.0060	ug/L	N/A	1148.94	0.0836	
Cr	52	45	He	-0.0069	ug/L	N/A	1016.71	0.1914	
Mn	55	45	He	0.0045	ug/L	16.5	190.00	0.0858	
Co	59	45	He	-0.0046	ug/L	N/A	58.89	0.0352	
Ni	60	45	He	0.0048	ug/L	60.0	220.00	0.1144	
Cu	65	72	He	-0.0082	ug/L	N/A	1272.29	0.2068	
Zn	66	72	He	-0.0124	ug/L	N/A	321.12	1.1682	
As	75	72	He	-0.0030	ug/L	N/A	47.67	0.044	
Se	78	72	He	-0.0857	ug/L	N/A	134.67	0.4444	
Mo	98	103	He	0.0057	ug/L	58.7	314.45	0.0616	
Ag	107	103	He	-0.0003	ug/L	N/A	320.01	0.055	
Cd	111	115	He	0.0003	ug/L	330.4	27.33	0.0352	
Sb	121	115	He	-0.0064	ug/L	N/A	445.57	0.055	
Ba	137	159	He	0.0136	ug/L	23.1	150.00	0.033	
Tl	205	159	He	-0.0013	ug/L	N/A	187.78	0.0396	
Pb	208	159	He	-0.0017	ug/L	N/A	1117.80	0.0704	

GC ISTD Table

Name	Mass	Tune Mode	CPS	CPS RSD	Ref CPS	% Rec	%QC Low	%QC High	QC Flag
Sc	45	No Gas	1779884.93	0.8	1781562.08	99.91	60	125	
Sc	45	He	98721.39	1.5	99086.83	99.63	60	125	
Ge	72	No Gas	511520.36	1.0	513331.68	99.65	60	125	
Ge	72	He	77519.31	0.5	76077.62	101.9	60	125	
Rh	103	He	1884442.08	0.4	1883005.97	100.08	60	125	
In	115	He	848101.55	0.1	843998.25	100.49	60	125	
Tb	159	He	2267150.60	0.3	2290441.65	98.98	60	125	



EBMUD LABORATORY SAMPLE REPORT

Sample Name GG41537-10
File Name 025_ARF.d
Data Path Name C:\Agilent\ICPMH\1\DATA\B250107-009.b
Acq Time 1/7/2025 9:48:51 AM
Sample Type AirRef
Autocamper Dilution 1.0000
Total Dilution 1.0150
Comment —
ISTD Ref FileName 002CALB.d
Sample GC Pass/Fail Pass
ISTD GC Pass/Fail Pass
Operator to

QC Analyte Table

Name	Mass	ISTD	Tune	Conc.	Units	RSD	CPS	LDR	QC Flag
Be	9	45	No Gas	0.0194	ug/L	9.5	158.89	630	
Al	27	45	He	725.3775	ug/L	0.2	409006.71	900	
V	51	45	He	5.2823	ug/L	0.9	91955.57	900	
Cr	52	45	He	3.1452	ug/L	0.8	71085.20	900	
Mn	55	45	He	97.6106	ug/L	0.6	1228070.26	900	
Co	59	45	He	2.3379	ug/L	0.9	91105.43	630	
Ni	60	45	He	6.5396	ug/L	1.8	72125.60	900	
Cu	65	72	He	65.4088	ug/L	0.7	975866.66	900	
Zn	66	72	He	156.5216	ug/L	0.6	693941.36	900	
As	75	72	He	2.1357	ug/L	2.1	6695.47	720	
Se	78	72	He	1.3836	ug/L	5.6	449.34	900	
Mo	98	103	He	5.9547	ug/L	0.4	134127.69	100	
Ag	107	103	He	0.2806	ug/L	2.5	13476.30	100	
Cd	111	115	He	0.2344	ug/L	1.6	1706.77	630	
Sb	121	115	He	0.9185	ug/L	1.2	18162.59	270	
Ba	137	159	He	45.0478	ug/L	0.3	315734.49	450	
Tl	205	159	He	0.0088	ug/L	36.0	1037.82	450	
Pb	208	159	He	3.7076	ug/L	0.6	414768.31	270	

QC ISTD Table

Name	Mass	Tune Mode	CPS	CPS RSD	Ref CPS	% Rec	%QC Low	%QC High	QC Flag
Sc	45	No Gas	1821313.75	1.3	1781562.08	102.23	60	125	
Sc	45	He	100133.82	1.7	99096.83	101.06	60	125	
Ge	72	No Gas	483005.38	1.3	513331.68	94.09	60	125	
Ge	72	He	76121.20	1.7	76077.62	100.06	60	125	
Rh	103	He	1720397.05	1.2	1883005.97	91.36	60	125	
In	115	He	801097.75	1.8	843998.25	94.92	60	125	
Tb	159	He	2177518.25	1.1	2290441.65	95.07	60	125	

TABLE – Calibration & MDL

Element	MDL Water	MDL WWater	CAL 1 Water	CAL 1 WWater	CAL 2	CAL 3	CAL 4	CAL 5	CAL 6
	Conc. µg/L	Conc. µg/L	Conc. µg/L	Conc. µg/L	Conc. µg/L	Conc. µg/L	Conc. µg/L	Conc. µg/L	Conc. µg/L
Ag	0.05	0.05	0.10	0.10	1.0	10	20	50	100
Al	1.5	2.5	3.0	5.0	N/A	10	20	50	100
As	0.40	0.05	0.80	0.10	1.0	10	20	50	100
Ba	0.10	0.10	0.20	0.20	1.0	10	20	50	100
Be	0.05	0.05	0.10	0.10	1.0	10	20	50	100
Cd	0.05	0.05	0.10	0.10	1.0	10	20	50	100
Co	0.05	0.05	0.10	0.10	1.0	10	20	50	100
Cr	0.20	0.10	0.40	0.20	1.0	10	20	50	100
Cu	0.40	0.25	0.80	0.50	1.0	10	20	50	100
Mn	0.05	0.20	0.10	0.40	1.0	10	20	50	100
Mo	0.05	0.08	0.10	0.15	1.0	10	20	50	100
Ni	0.40	0.20	0.80	0.40	1.0	10	20	50	100
Pb	0.20	0.20	0.40	0.40	1.0	10	20	50	100
Sb	0.20	0.20	0.40	0.40	1.0	10	20	50	100
Se	1.0	0.48	2.0	0.95	1.0*	10	20	50	100
Tl	0.05	0.06	0.10	0.12	1.0	10	20	50	100
V	0.25	0.08	0.50	0.15	1.0	10	20	50	100
Zn	1.5	0.40	3.0	0.80	1.0†	10	20	50	100

* Not used in the WW calibration curve.

† Not used in the DW calibration curve.

D. FAILURE TO MEET SPECIFICATIONS

In the event any shipment or shipments of a Contractor's product do not meet the specification or delivery requirements, the District may reject the shipment or shipments and, at its option, may purchase this material from any supplier on the open market who can meet the District's specification requirements, or the District may demand immediate replacement by Contractor of the non-conforming product. Any costs over and above the original contract price will be charged back to the Contractor. In addition, Contractor shall bear the costs of removal and disposition for any delivery which fails to conform to the specifications.

II. CALENDAR OF EVENTS

EVENT	DATE/LOCATION
RFQ Issued	February 25, 2026
Deadline For Submission of Questions	March 6, 2026
Response Due	March 18, 2026 by 2:00 p.m. At this time all bids will be opened publicly in the EBMUD Board Room at 375 Eleventh St., Oakland, CA 94607*
Anticipated Contract Start Date	April 28, 2026

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

Bidders are responsible for reviewing <https://www.ebmud.com/business-center/materials-and-supplies-bids/current-requests-quotation-rfqs/> for any published addenda. Hard copies of addenda will not be mailed out.

III. DISTRICT PROCEDURES, TERMS, AND CONDITIONS**A. RFQ ACCEPTANCE AND AWARD**

1. RFQ responses will be evaluated to determine that they are responsive, responsible, and that they meet the specifications as stated in this RFQ.
2. The District reserves the right to award to a single or to multiple Contractors, dependent upon what provides the lowest overall cost to the District.
3. The District has the right to decline to award this contract or any part of it for any reason.
4. Any specifications, terms, or conditions, issued by the District, or those included in the bidder's submission, in relation to this RFQ, may be incorporated into any purchase order or contract that may be awarded as a result of this RFQ.
5. 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 bidder 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 bids have been opened.

B. BRAND NAMES, APPROVED EQUIVALENTS, DEVIATIONS, AND EXCEPTIONS

Any references to manufacturers, trade names, brand names, and/or catalog numbers are intended to be descriptive, but not restrictive, unless otherwise stated, and are

intended to indicate the quality level desired. Bidders may offer an equivalent product that meets or exceeds the specifications.

The District reserves the right to be the sole judge of what shall be considered equal and/or acceptable and may require the bidder to provide additional information and/or samples. If the bidder does not specify otherwise, it is understood that the brand and/or product referenced in this RFQ will be supplied.

Taking exception to the RFQ, or failure on the part of the bidder to comply with all requirements and conditions of this RFQ, may subject the RFQ response to rejection. If no deviations are shown, the bidder will be required to furnish the material exactly as specified. The burden of proof of compliance with the specifications will be the responsibility of the bidder.

This RFQ is subject to acceptance only on the terms and conditions stated in this RFQ. Any additional or different terms and conditions proposed by the bidder are hereby rejected and shall be of no force or effect unless expressly assented to in writing by the District.

C. PRICING

1. All prices are to be F.O.B. destination. Any freight/delivery charges are to be included.
2. All prices quoted shall be in United States dollars.
3. Price quotes shall include any and all payment incentives available to the District.
4. Bidders are advised that in the evaluation of cost, if applicable, it will be assumed that the unit price quoted is correct in the case of a discrepancy between the unit price and extended price.

D. NOTICE OF INTENT TO AWARD AND PROTESTS

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

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 bidders or potential bidders 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 RFQ protest period.

Bid 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 bid, 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, 375 Eleventh Street, 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 bid protest filed with any other District office shall be forwarded immediately to the Manager of Purchasing.

The bid 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 bid protester must also send the Purchasing Division a copy of all materials sent to the Department Director.

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

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

E. METHOD OF ORDERING

1. Written POs may be issued upon approval of written itemized quotations received from the Contractor.
2. POs and payments for products and/or services will be issued only in the name of Contractor.

3. Any and all change orders shall be in writing and agreed upon, in advance, by Contractor and the District.

F. TERM / TERMINATION / RENEWAL

1. The term of the contract, which may be awarded pursuant to this RFQ, will be two (2) years.
2. This Agreement may be terminated for convenience by the District provided the Contractor is given written notice of not less than 30 calendar days. Upon such termination, the District shall pay the Contractor the amount owing for the products ordered and satisfactorily received by the District. This shall be the sole and exclusive remedy to which the Contractor is properly entitled in the event of termination by the District.
3. This Agreement may be terminated for cause at any time, provided that the District notifies Contractor of impending action.

G. WARRANTY

1. For any contract awarded pursuant to this RFQ, Bidder expressly warrants that all goods and services to be furnished pursuant to any contract awarded it arising from the Bid will conform to the descriptions and specifications contained herein and in supplier catalogs, product brochures and other representations, depictions or models, and will be free from defects, of merchantable quality, good material, and workmanship. Bidder expressly warrants that all goods and services to be furnished pursuant to such award will be fit and sufficient for the purpose(s) intended. This warranty shall survive any inspections, delivery, acceptance, payment, or contract termination for any reason, by the District. Bidder warrants that all work and services furnished hereunder shall be guaranteed for a period of **three (3)** years from the date of acceptance by the District.

H. INVOICING

1. Following the District's acceptance of product(s) meeting all specified requirements, and/or the complete and satisfactory performance of services, the District will render payment within thirty (30) days of receipt of a correct invoice.
2. The District shall notify Contractor of any invoice adjustments required.
3. Invoices shall contain, at a minimum, District purchase order number, invoice number, remit to address, and itemized products and/or services description.
4. The District will pay Contractor in an amount not to exceed the total amount quoted in the RFQ response.

IV. RFQ RESPONSE SUBMITTAL INSTRUCTIONS AND INFORMATION

A. DISTRICT CONTACTS

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

TECHNICAL SPECIFICATIONS:

Attn: Jason Mitchell, Laboratory Supervisor
EBMUD-Laboratory Svcs. Div./Wastewater Dept.
E-Mail: jason.mitchell@ebmud.com
PHONE: (510) 287-1893

CONTRACT EQUITY PROGRAM:

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

AFTER AWARD:

Attn: Jason Mitchell, Laboratory Supervisor
EBMUD-Laboratory Svcs. Div./Wastewater Dept.
E-Mail: jason.mitchell@ebmud.com
PHONE: (510) 287-1893

B. SUBMITTAL OF RFQ RESPONSE

1. Responses must be submitted in accordance with Exhibit A – RFQ Response Packet, including all additional documentation stated in the “Required Documentation and Submittals” section of Exhibit A.
2. Late and/or unsealed responses will not be accepted.
3. RFQ responses submitted via electronic transmissions will not be accepted. Electronic transmissions include faxed RFQ responses or those sent by electronic mail (“e-mail”).
4. All RFQ responses must be SEALED and received by 2:00 p.m. on the due date specified in the Calendar of Events. Any RFQ response received after that time/date, or at a place other than the stated addresses, cannot be considered and will be returned to the bidder unopened. The EBMUD mailroom and Purchasing Division timestamp shall be considered the official timepiece for the purpose of establishing the actual receipt of RFQ responses.
5. RFQ responses are to be addressed/delivered as follows:

Mailed (USPS):

East Bay Municipal Utility District
INDUCTIVELY COUPLED PLASMA MASS SPECTROMETER WITH
AUTOSAMPLER
RFQ No. 2616
EBMUD–Purchasing Division
P.O. Box 24055
Oakland, CA 94623

Hand Delivered, delivered by courier or package delivery service (UPS, FedEx, DHL, etc.):

East Bay Municipal Utility District
INDUCTIVELY COUPLED PLASMA MASS SPECTROMETER WITH
AUTOSAMPLER
RFQ No. 2616
EBMUD–Purchasing Division
375 Eleventh Street, First Floor
Oakland, CA 94607

Bidder's name, return address, and the RFQ number and title must also appear on the mailing package.

6. All costs required for the preparation and submission of an RFQ response shall be borne by the bidder.
7. California Government Code Section 4552: In submitting an RFQ response to a public purchasing body, the bidder offers and agrees that if the RFQ 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 bidder for sale to the purchasing body pursuant to the RFQ response. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder.
8. Bidder 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.
9. The RFQ response shall remain open to acceptance and is irrevocable for a period of one hundred eighty (180) days, unless otherwise specified in the RFQ documents.
10. It is understood that the District reserves the right to reject any or all RFQ responses.

11. RFQ responses, in whole or in part, are NOT to be marked confidential or proprietary. The District may refuse to consider any RFQ response or part thereof so marked. RFQ responses submitted in response to this RFQ may be subject to public disclosure. The District shall not be liable in any way for disclosure of any such records.



EXHIBIT A
RFQ RESPONSE PACKET
RFQ No. 2616 – INDUCTIVELY COUPLED PLASMA MASS SPECTROMETER
WITH AUTOSAMPLER

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

From: _____

(Official Name of Bidder)

RFQ RESPONSE PACKET GUIDELINES

- **BIDDERS ARE TO SUBMIT ONE (1) ORIGINAL HARDCOPY RFQ RESPONSE WITH ORIGINAL INK SIGNATURES, CONTAINING THE FOLLOWING IN THEIR ENTIRETY:**
 - **EXHIBIT A – RFQ RESPONSE PACKET**
 - **INCLUDING ALL REQUIRED DOCUMENTATION AS DESCRIBED IN “EXHIBIT A-REQUIRED DOCUMENTATION AND SUBMITTALS”**
 - **PROPOSAL**
 - **INCLUDING THE QUADROPOLE ICP-MS INSTRUMENT COMPLETED CRITERIA TABLE INSTRUCTIONS AND REQUIREMENTS**
- **ALL PRICES AND NOTATIONS MUST BE PRINTED IN INK OR TYPEWRITTEN; NO ERASURES ARE PERMITTED; ERRORS MAY BE CROSSED OUT AND CORRECTIONS PRINTED IN INK OR TYPEWRITTEN ADJACENT AND MUST BE INITIALED IN INK BY PERSON SIGNING THE RFQ RESPONSE.**
- **BIDDERS THAT DO NOT COMPLY WITH THE REQUIREMENTS, AND/OR SUBMIT AN INCOMPLETE RFQ RESPONSE MAY BE SUBJECT TO DISQUALIFICATION AND THEIR RFQ RESPONSE REJECTED IN TOTAL.**
- **IF BIDDERS ARE MAKING ANY CLARIFICATIONS AND/OR AMENDMENTS, OR TAKING EXCEPTION TO ANY PART OF THIS RFQ, THESE MUST BE SUBMITTED IN THE EXCEPTIONS, CLARIFICATIONS, AND AMENDMENTS SECTION OF THIS EXHIBIT A – RFQ RESPONSE PACKET. THE DISTRICT, AT ITS SOLE DISCRETION, MAY ACCEPT AMENDMENTS/EXCEPTIONS, OR MAY DEEM THEM TO BE UNACCEPTABLE, THEREBY RENDERING THE RFQ RESPONSE DISQUALIFIED.**
- **BIDDERS SHALL NOT MODIFY DISTRICT LANGUAGE IN ANY PART OF THIS RFQ OR ITS EXHIBITS, NOR SHALL THEY QUALIFY THEIR RFQ 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.”**



BIDDER INFORMATION AND ACCEPTANCE

1. The undersigned declares that all RFQ documents, including, without limitation, the RFQ, 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 RFQ documents.
3. The undersigned acknowledges acceptance of all addenda related to this RFQ.
4. The undersigned hereby certifies to the District that all representations, certifications, and statements made by the bidder, as set forth in this RFQ 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 bidder 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 RFQ and associated RFQ documents.
6. It is the responsibility of each bidder to be familiar with all of the specifications, terms, and conditions and, if applicable, the site condition. By the submission of an RFQ response, the bidder 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: Contractors 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 – RFQ Response Packet, the bidder agrees to meet the minimum insurance requirements stated in the RFQ. 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 RFQ.
9. The undersigned acknowledges that RFQ responses, in whole or in part, are NOT to be marked confidential or proprietary. The District may refuse to consider any RFQ response or part thereof so marked. RFQ responses submitted in response to this RFQ may be subject to public disclosure. The District shall not be liable in any way for disclosure of any such records.
10. The undersigned bidder hereby submits this RFQ response and binds itself on award to the District under this RFQ to execute in accordance with such award a contract and to furnish the bond or bonds and insurance required by the RFQ. The RFQ, subsequent Addenda, bidder's Response Packet, and any attachments, shall constitute the Contract, and all provisions thereof are hereby accepted.
11. The undersigned acknowledges **ONE** of the following (please check only one box):

- Bidder is not an SBE and is ineligible for any bid preference; **OR**
- Bidder is an SBE or DVBE as described in the Contract Equity Program (CEP) and Equal Employment Opportunity (EEO) Guidelines, is requesting a 7% bid preference, and has completed the CEP and EEO forms at the hyperlink contained in the CEP and EEO section of this Exhibit A.

For additional information on SBE bid preference, please refer to the Contract Equity Program and Equal Employment Opportunity Guidelines at the above referenced hyperlink.

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

Street Address Line 1: _____

Street Address Line 2: _____

City: _____ State: _____ Zip Code: _____

Webpage: _____

Type of Entity / Organizational Structure (check one):

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

Jurisdiction of Organization Structure: _____

Date of Organization Structure: _____

Federal Tax Identification Number: _____

Department of Industrial Relations (DIR) Registration Number: _____

Primary Contact Information:

Name / Title: _____

Telephone Number: _____ Fax Number: _____

E-mail Address: _____

Street Address Line 1: _____

City: _____ State: _____ Zip Code: _____

SIGNATURE: _____

Name and Title of Signer (printed): _____

Dated this _____ day of _____ 20_____



BIDDING SHEET

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

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

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

Description	Unit of Measure	Estimated Quantity	Unit Cost	Extended Cost
Furnish and install one (1) ICP-MS with autosampler as described in the "Specific Requirements" section of this RFQ.	Each	1	\$	\$
Extended warranty beyond initial one-year warranty, as described in RFQ, page 12, Section G – WARRANTY.	Year	2	\$	\$
			TOTAL COST	\$



REQUIRED DOCUMENTATION AND SUBMITTALS

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

1. **Description of the Proposed Equipment/System:** RFQ response shall include a description of the proposed equipment/system, as it will be finally configured during the term of the contract. The description shall specify how the proposed equipment/system will meet or exceed the requirements of the District and shall explain any advantages that this proposed equipment/system would have over other possible equipment/systems. The description shall include any disadvantages or limitations that the District should be aware of in evaluating the RFQ response. Finally, the description shall describe all product warranties provided by bidder.
2. **Sustainability Statement:** Contractors shall submit a statement regarding any sustainable or environmental initiatives or practices that they or their suppliers engage in. This information can be in relation to the specific products procured under this RFQ or in relation to the manufacture, delivery, or office practices of your firm.

If applicable, please also provide any information you have available on the below:

- (a) Has your firm taken steps to enhance its ability to assess, track and address issues regarding Greenhouse Gas (GHG) Emissions in answer to recent legislations such as the [Buy Clean California Act](#)? If so, please attach any data you can on the embedded greenhouse gas emissions in the production and transport of the products and/or services which will be provided via this RFQ. If this is not available, please describe the approach you plan to take in order to gather and report this information in the future. For further information in this topic, please see: <http://www.ghgprotocol.org/scope-3-technical-calculation-guidance>
3. **References:**
 - (a) Bidders must use the templates in the “References” section of this Exhibit A – RFQ Response Packet to provide references.
 - (b) References should have similar scope, volume, and requirements to those outlined in these specifications, terms, and conditions.
 - Bidders must verify the contact information for all references provided is current and valid.
 - Bidders are strongly encouraged to notify all references that the District may be contacting them to obtain a reference.

- (c) The District may contact some or all of the references provided in order to determine Bidder's performance record on work similar to that described in this RFQ. The District reserves the right to contact references other than those provided in the RFQ response.

4. **Exceptions, Clarifications, Amendments:**

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

5. **Contract Equity Program:**

- (a) Every bidder 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, "Contractor Employment Data and Certification". Any bidder needing assistance in completing these forms should contact the District's Contract Equity Office at (510) 287-0114 prior to submitting an RFQ response.



REFERENCES

RFQ No. 2616 – INDUCTIVELY COUPLED PLASMA MASS SPECTROMETER WITH AUTOSAMPLER

Bidder Name: _____

Bidder must provide a minimum of three (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

RFQ No. 2616 – INDUCTIVELY COUPLED PLASMA MASS SPECTROMETER WITH AUTOSAMPLER

Bidder Name: _____

List below requests for clarifications, exceptions, and amendments, if any, to the RFQ and associated RFQ Documents, and submit with bidder’s RFQ response. **The District is under no obligation to accept any exceptions and such exceptions may be a basis for RFQ response disqualification.**

Reference to:			Description
Page No.	Section	Item No.	
p. 23	D	1.c.	<i>Bidder takes exception to...</i>

*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 contractors 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 bid.

Non-compliance with the Guidelines may deem a bid 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 bid the appropriate forms.

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

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

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



EXHIBIT B INSURANCE REQUIREMENTS

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 PROPOSER agrees to meet the minimum insurance requirements stated in the RFP.

Provisions Applicable to All Required Insurance

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

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

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

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. The Products Completed Operations coverage shall include coverage for claims for bodily injury or property damage arising out of a defective or malfunctioning product.
- 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:
 - a. Each Occurrence Limit (per accident) and in the Aggregate: 2,000,000
 - b. 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. 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

GENERAL REQUIREMENTS

Effective: June 9, 2021
Supersedes: September 1, 2020

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1. DEFINITIONS

The following terms shall be given the meaning shown, unless context requires otherwise, or a unique meaning is otherwise specified.

- a. **"Change Order"** A Change Order is a written instrument used for modifying the contract with regards to the scope of Work, contract sum, and/or Contract Time. An approved Change Order is a Change Order signed by the District. An executed Change Order is a Change Order signed by both the District and the Contractor.
- b. **"Contract"** means the agreement between the District and Contractor as memorialized in the Contract Documents.

- c. **“Business Entity”** means any individual, business, partnership, joint venture, corporation, sole proprietorship, or other private legal entity recognized by statute.
- d. **“Buyer”** means the District’s authorized contracting official.
- e. **“Contract Documents”** comprise the entire agreement between the District and the Contractor and can include the District’s contract form if used, any purchase order, RFP, RFQ or Contractor response packet, and any addenda, appendices and District approved changes or amendments. The Contract Documents are intended to be complementary and include all items necessary for the Contractor’s proper execution and completion of the Work. Any part of the Work not shown or mentioned in the Contract Documents that is reasonably implied or is necessary or usual for proper performance of the Work, shall be provided by the Contractor at its expense.
- f. **“Contractor”** means the Business Entity with whom the District enters into a contractual agreement. Contractor shall be synonymous with “supplier”, “vendor”, “consultant” or other similar term.
- g. **“Day”** unless otherwise specified, days are calendar days, measured from midnight to the next midnight.
- h. **“District”** means the East Bay Municipal Utility District, its employees acting within the scope of their authority, and its authorized representatives.
- i. **“Goods”** means off the shelf software and all types of tangible personal property, including but not limited to materials, supplies, and equipment.
- j. **“Project Manager”** shall be the District designated individual responsible for administering and interpreting the terms and conditions of the Contract Documents, for matters relating to the Contractor’s performance under the Contract with the District, and for liaison and coordination between the District and Contractor.
- k. **“Work”** means all labor, tasks, materials, supplies, and equipment required to properly fulfill the Contractor’s obligations as required in the Contract Documents.
- l. **“Work Day”** Unless otherwise specified, work day includes all days of the year except Saturdays, Sundays and District holidays.

2. BOND

- a. When required in the District’s bid or proposal solicitation documents, the Contractor to whom award is made shall furnish a good and approved faithful performance bond and/or payment bond within ten business days after receiving the forms for execution.
- b. The bonds shall be executed by a sufficient, admitted surety insurer (i.e.: as listed on website <https://www.cslb.ca.gov/OnlineServices/InsuranceSearch/INSRequest.aspx>) admitted to transact such business in California by the California Department of Insurance. After acceptance of the bond(s) by the District, a copy of the bond(s) will be returned to the Contractor.
- c. If, during the continuance of the Contract, any of the sureties, in the opinion of the District, are or become irresponsible, the District may require other or additional sureties, which the Contractor shall furnish to the satisfaction of the District within ten

days after notice. If the Contractor fails to provide satisfactory sureties within the ten-day period, the Contract may be terminated for cause under Article 18.

3. CONTRACTOR'S FINANCIAL OBLIGATION

The Contractor shall promptly make payments to all persons supplying labor and materials used in the execution of the contract.

4. SAMPLES OR SPECIMENS

The Contractor shall submit samples or prepare test specimens of such materials to be furnished or used in the work as the Project Manager may require.

5. MATERIAL AND WORKMANSHIP

- a. All goods and materials must be new and of the specified quality and equal to approved sample, if samples have been required. In the event any goods or materials furnished, or services provided by the Contractor in the performance of the Contract fail to conform to the requirements, or to the sample submitted by the Contractor, the District may reject the same, and it shall become the duty of the Contractor to reclaim and remove the item promptly or to correct the performance of services, without expense to the District, and immediately replace all such rejected items with others conforming to the Contract. All work shall be done and completed in a thorough, workmanlike manner, notwithstanding any omission from these specifications or the drawings, and it shall be the duty of the Contractor to call attention to apparent errors or omissions and request instructions before proceeding with the work. The Project Manager may, by appropriate instructions, correct errors and supply omissions, which instructions shall be binding upon the Contractor as though contained in the original Contract Documents.
- b. All materials furnished and all Work must be satisfactory to the Project Manager. Work, material, or machinery not in accordance with the Contract Documents, in the opinion of the Project Manager, shall be made to conform.

6. DEFECTIVE WORK

The Contractor shall replace at its own expense any part of the work that has been improperly executed, as determined by the Project Manager. If Contractor refuses or neglects to replace such defective work, it may be replaced by the District at the expense of the Contractor, and its sureties shall be liable therefor.

7. WARRANTY

Contractor expressly warrants that all goods furnished will conform strictly with the specifications and requirements contained herein and with all approved submittals, samples and/or models and information contained or referenced therein, all affirmations of fact or promises, and will be new, of merchantable quality, free from defects in materials and workmanship, including but not limited to leaks, breaks, penetrations, imperfections, corrosion, deterioration, or other kinds of product deficiencies. Contractor expressly warrants that all goods to be furnished will be fit and sufficient for the purpose(s) intended. Contractor expressly warrants that all goods shall be delivered free from any security interest, lien or encumbrance of any kind, and free from any claim of infringement, copyright or other intellectual property violation, or other violation of laws, statutes, regulations, ordinances, rules, treaties, import

restrictions, embargoes or other legal requirements. Contractor guarantees all products and services against faulty or inadequate design, manufacture, negligent or improper transport, handling, assembly, installation or testing, and further guaranties that there shall be strict compliance with all manufacturer guidelines, recommendations, and requirements, and that Contractor guaranties that it will conform to all requirements necessary to keep all manufacturer warranties and guarantees in full force and effect. These warranties and guarantees are inclusive of all parts, labor and equipment necessary to achieve strict conformance, and shall take precedence over any conflicting warranty or guarantee. These warranties and guarantees shall not be affected, limited, discharged or waived by any examination, inspection, delivery, acceptance, payment, course of dealing, course of performance, usage of trade, or termination for any reason and to any extent. In the absence of any conflicting language as to duration, which conflicting language will take precedence as being more specific, Contractor's aforesaid warranties and guarantees shall be in full force and effect for a period of one year from the date of acceptance by the District but shall continue in full force and effect following notice from District of any warranty or guarantee issue, until such issue has been fully resolved to the satisfaction of District.

8. NOT USED

9. SAFETY AND ACCIDENT PREVENTION

In performing work under the Contract on District premises, Contractor shall conform to any specific safety requirements contained in the Contract or as required by law or regulation. Contractor shall take any additional precautions as the District may reasonably require for safety and accident prevention purposes. Any violation of such rules and requirements, unless promptly corrected, shall be grounds for termination of this Contract or Contractor's right to precede in accordance with the default provisions of the Contract Documents.

10. CHARACTER OF WORKFORCE

The Contractor shall employ none but skilled competent qualified personnel to perform the Work and shall maintain discipline and order in the conduct of the Work at all times.

11. PREVAILING WAGES & DIR REGISTRATION

- a. Please see www.dir.ca.gov for further information regarding the below.
- b. 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).
- c. 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
- d. to post job site notices, "as prescribed by regulation" (LC § 1771.4).
- e. To the extent applicable, 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. Pursuant to Section

1773.2 of the Labor Code, 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.

- f. 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 Work.
- g. 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.
- h. Pursuant to Section 1774 of the Labor Code, the 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.
- i. As set forth with more specificity in Section 1773.1 of the Labor Code, "per diem" wages include employer payments for health and welfare, pension, vacation, travel, subsistence and, in certain instances, apprenticeship or other training programs, and shall be paid at the rate and in the amount spelled out in the pertinent prevailing wage determinations issued by the Director of Industrial Relations.
- j. The 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 Subcontractor under him. 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.
- k. 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 its payment 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 its own expense.
- l. General prevailing wage determinations have expiration dates with either a single
- m. 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 Contract Sum will be made for the Contractor's payment of these predetermined wage modifications.

12. PAYROLL RECORDS & ELECTRONIC SUBMISSION

If prevailing wages apply, Contractor and each Subcontractor, as appropriate, shall comply with the following:

- a. 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

Work. 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.

- b. The Contractor shall submit for each week in which any contract Work is performed a copy of all payroll records to the Project Manager. The Contractor shall be responsible for submission of copies of payroll records of all Subcontractors.
- c. The Contractor or Subcontractor shall certify the payroll records as shown on the DIR form. In addition, the records shall be accompanied by a statement signed by the Contractor or Subcontractor certifying that the classifications truly reflect the Work performed and that the wage rates are not less than those required to be paid.
- d. 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.
- e. In the event of noncompliance with the requirements of Section 1776 of the Labor Code, the 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, the 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.
- f. The 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/wpnodb.html>.

13. HOURS OF LABOR

Pursuant to the provisions of Sections 1810, et seq. of the Labor Code and any amendments thereof:

- a. Eight hours of labor constitutes a legal day's Work under the contract.
- b. 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 except as provided in Article 13.iv below.
- c. The 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 in the execution of the contract by the 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 this Article and the provisions of Labor Code, Sections 1810, et seq.

- d. Work performed by employees of the 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.
- e. The 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 Work; 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.

14. EMPLOYMENT OF APPRENTICES

- a. In the performance of the contract, the 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.
- b. In the event the Contractor or any Subcontractor willfully fails to comply with the aforesaid section, such Contractor or Subcontractor shall be subject to the penalties for noncompliance in Labor Code, Section 1777.7.

15. CHANGES

- a. Changes in the Work can only be made in writing signed by an authorized employee of the District. If the change causes an increase or decrease in the contract sum, or a change in the time for performance under the Contract, an adjustment may be made as determined by the Project Manager.
- b. The District reserves the right to make changes in the design of materials, equipment, or machinery, to make alterations or additions to or deviations or subtractions from the Contract and any specifications and drawings, to increase or decrease the required quantity of any item or portion of the Work or to omit any item or portion of the Work, as may be deemed by the Project Manager to be necessary or advisable and to order such extra work as may be determined by the Project Manager to be required for the proper execution and completion of the whole Work contemplated. Any such changes will be ordered in writing by the Project Manager. The determination of the Project Manager on all questions relating to changes, including extra work, shall be conclusive and binding.
- c. Prior to issuing an amendment or change to the Contract, the Project Manager may request that the Contractor submit a proposal covering the changes. Within 10 business days of receiving the request, the Contractor shall submit its proposal to the Project Manager of all costs associated with the proposed amendment or change and any request for an extension of Contract time. Contractor's proposal shall include detailed estimates with cost breakdowns, including labor, material, equipment, overhead, and profit. Labor shall be broken down into hours and rate per hour. If applicable, the proposal shall include a breakdown for off-site labor (including factory labor, engineering, etc.). The Contractor's proposal shall include an analysis of schedule impact when the Contractor is requesting an adjustment in contract time. The

Contractor shall be responsible for any delay associated with its failure to submit its change proposal within the time specified. If the Project Manager decides not to issue an amendment or change after requesting a proposal from the Contractor, the Contractor will be notified in writing. The Contractor is not entitled to reimbursement for Change Order preparation costs if the Contractor's proposal is not accepted by the Project Manager.

- d. If the Contractor agrees with the terms and conditions of the approved Change Order, the Contractor shall indicate its acceptance by signing the original copy and returning it to the Project Manager within 10 Work Days after receipt or with reasonable promptness and in such sequence as to not delay the Work or activities of the District or of separate contractors, whichever is sooner. If notice of any change is required to be given to a surety by the provisions of any bond, the Contractor shall provide notice and the amount of each applicable bond shall be adjusted separately. Payment in accordance with the terms and conditions set forth in the executed Change Order shall constitute full compensation for all Work included in the Change Order and the District will be released from any and all claims for direct, indirect, and impact expenses and additional time impact resulting from the Work. If the Contractor disagrees with the terms and conditions of the approved Change Order, the Contractor shall indicate specific areas of disagreement and return the approved Change Order to the Project Manager with a detailed written dispute. No payment will be made on the disputed work until the approved Change Order is returned to the Project Manager. However, whether or not the Contractor agrees with the terms and conditions of an approved Change Order, the Contractor shall immediately revise its sequence of operations as required to facilitate timely completion of the changed work and shall proceed with the revised work sequence.
- e. The Project Manager may, after having received a written cost quotation from the Contractor, order the Contractor, in writing, to proceed with the work prior to issuance of an approved Change Order through a change directive. The change directive will authorize the Contractor to proceed with the work subject to the cost quotation submitted by the Contractor. Within five days following receipt of the change directive, the Contractor shall submit a detailed change proposal documenting the amount of compensation. The Project Manager will review the change proposal and, at its option, will either issue an approved Change Order for the work or direct the Contractor to perform the work through Force Account. Until the method of compensation is determined, and the approved Change Order is received, the Contractor shall keep full and complete time and material records of the cost of the ordered work and shall permit the Project Manager to have access to such records. An approved Change Order shall supersede any previously issued written change directive covering the same Work.

16. EFFECT OF EXTENSIONS OF TIME

The granting, or acceptance, of extensions of time to complete the Work or furnish the labor, supplies, materials or equipment, or any one of the aforementioned, will not operate as a release of Contractor or the surety on Contractor's faithful performance bond.

17. DELAYS

- a. The Contractor shall take reasonable precautions to foresee and prevent delays to the Work. When the Contractor foresees a delay event, and upon the occurrence of a delay

event, the Contractor shall immediately notify the Project Manager of the probability or the actual occurrence of a delay, and its cause. With respect to all delays (compensable, excusable or inexcusable), the Contractor shall reschedule the Work and revise its operations, to the extent possible, to mitigate the effects of the delay. Within 15 days from the beginning of a delay the Contractor shall provide the Project Manager with a detailed written description of the delay, its cause, its impact and the Contractor's mitigation plans. Failure to provide the notification required above waives the Contractor's right to any additional time or compensation resulting from the delay for whatever cause. The Project Manager will investigate the facts and ascertain the extent of the delay, and the Project Manager's findings thereon shall be final and conclusive, except in the case of gross error. An extension of time must be approved by the Project Manager to be effective, but an extension of time, whether with or without consent of the sureties, shall not release the sureties from their obligations, which shall remain in full force until the discharge of the contract.

- b. For inexcusable delays (delays caused by circumstances within the Contractor's control, the control of its subcontractors or supplies of any tier, or within the scope of the Contractor's contract responsibilities) the Contractor shall not be entitled to an extension of time or additional compensation for any loss, cost, damage, expense or liability resulting directly or indirectly from the inexcusable delay.
- c. For excusable delays (delays to completion of the Work within the time limits set forth in the Contract Documents directly caused by events beyond the control of both the Contractor and the District, which delay is not concurrent with an inexcusable delay and which could not have been avoided by the Contractor through reasonable mitigation measures the Project Manager will grant the Contractor an extension of time in an amount equal to the period of Excusable Delay based on the analysis of schedule impact and delay analysis diagram, which shall be the Contractor's sole and exclusive remedy for such delay. Excusable Delays shall include labor strikes, adverse weather, and Acts of God.
- d. For compensable delays (delays to completion of the Work within the time limits set forth in the Contract Documents that could not be avoided by Contractor mitigation, caused directly and solely by the District or by causes within the exclusive control of the
- e. District, and which were not concurrent with any other type of delay) the Project
- f. Manager will grant the Contractor an extension of the time to perform under the Contract and compensation in an amount that represents the Contractor's actual direct costs incurred as a direct result of the compensable delay. The Contractor may recover its direct costs only and may not recover (and waives) all other types of indirect, consequential, special and incidental damages.
- g. For concurrent delays (two or more independent causes of delay directly preventing the Contractor from completing the Work within the time limits set forth in the Contract Documents where the delays occur at the same time during all or a portion of the delay period being considered, and where each of the delays would have caused delay to the Contractor even in the absence of any of the other delays, and none of the delays could have been avoided by Contractor mitigations) the following rules apply:

- i. One or more of the concurrent delays are excusable or compensable, then the period of concurrent delay will be treated as an excusable delay; and
- ii. All of the concurrent delays are inexcusable, then the period of concurrent delay will be inexcusable.

18. TERMINATION

a. Termination by the District for Cause:

- i. District may terminate the Contractor's right to proceed under the Contract, in whole or in part, for cause at any time after the occurrence of any of the following events, each of which constitutes a default:
 - 1. The Contractor becomes insolvent or files for relief under the bankruptcy laws of the United States.
 - 2. The Contractor makes a general assignment for the benefit of its creditors or fails to pay its debts as the same become due.
 - 3. A receiver is appointed to take charge of the Contractor's property.
 - 4. The Contractor fails to supply skilled supervisory personnel, an adequate number of properly skilled workers, proper materials, or necessary equipment to prosecute the Work in accordance with the Contract Documents.
 - 5. The Contractor fails to make progress so as to endanger performance of the Work within the contractually required time.
 - 6. The Contractor disregards legal requirements of agencies having jurisdiction over the Work, the Contractor, or the District.
 - 7. The Contractor fails to provide the District with a written plan to cure a District identified default within five business days after the District's request for a plan to cure; the District does not accept the Contractor's plan for curing its default; or the Contractor does not fully carry out an accepted plan to cure.
 - 8. The Contractor abandons the Work. Abandonment is conclusively presumed when the District requests a written plan to cure a default and the Contractor does not submit the plan within five business days of the District's request.
 - 9. The Contractor materially fails to meet its obligations in accordance with the Contract Documents.
 - 10. The Contractor is in default of any other material obligation under the Contract Documents.
- ii. If any of the above events occur, the District may, in its discretion, require that the Contractor submit a written plan to cure its default, which plan must be provided to the District within 5 business days of the request and must include a realistic, executable plan for curing the noted defaults.

- iii. Upon any of the occurrences referred to in Article 18.a.i. above, the District may, at its election and by notice to the Contractor, terminate the Contract in whole or in part; accept the assignment of any or all of the subcontracts; and then complete the Work by any method the District may deem expedient. If requested by the District, the Contractor shall remove any part or all of the Contractor's materials, supplies, equipment, tools, and machinery from the site of the Work within seven days of such request; and, if the Contractor fails to do so, the District may remove or store, and after 90 days sell, any of the same at the Contractor's expense.
- iv. No termination or action taken by the District after termination shall prejudice any other rights or remedies of the District provided by law or by the Contract Documents.
- v. Conversion: If, after termination for other than convenience, it is determined that the Contractor was not in default or material breach, or that the default or material breach was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for convenience pursuant to Article 18.b. below.

b. Termination by the District for Convenience:

- i. The District may, at its option, and for its convenience, terminate the Contract at any time by giving written notice to the Contractor specifying the effective date of termination. Upon such termination, the Contractor agrees to comply with the notice and further agrees to waive any claims for damages, including loss of anticipated profits, on account of the termination; and, as the sole right and remedy of the Contractor, the District shall pay the Contractor as set forth below.
- ii. Upon receipt of a notice of termination for convenience, the Contractor shall, unless the notice directs otherwise, do the following:
 - 1. Immediately discontinue its performance of the Contract to the extent specified in the notice.
 - 2. Place no further orders or subcontracts for materials, equipment, services, or facilities, except as may be necessary for completion of a portion of the Work that is not discontinued or that is necessary for an orderly cessation of the Work.
 - 3. Promptly cancel, on the most favorable terms reasonably possible, all subcontracts to the extent they relate to the performance of the discontinued portion of the Work.
 - 4. Thereafter, do only such Work as may be necessary to preserve and protect Work already in progress and to protect materials, plants, and equipment in transit to or on the site of performance.
- iii. Upon such termination for convenience, the District will pay to the Contractor the sum of the following:

1. The amount of the contract sum allocable to the portion of the Work properly performed by the Contractor as of the effective date of termination, less sums previously paid to the Contractor.
 2. Previously unpaid costs of any items delivered to the project site that were already fabricated for subsequent incorporation into the Work.
 3. Any proven losses with respect to materials and equipment directly resulting from the termination.
 4. Reasonable demobilization costs.
- iv. The above reimbursement is the sole and exclusive remedy to which the Contractor is entitled in the event the contract is terminated for convenience; and the Contractor expressly waives any other claims, damages, demands, compensation or recovery related to this contract or project. The Contractor agrees to sign a general release incorporating this waiver.
- c. Effect of Termination: Upon termination, the obligations of the Contract shall continue as to portions of the Work already performed and, subject to the Contractor's obligations under Article 18.b.ii, as to bona fide obligations assumed by the Contractor prior to the date of termination.
- d. Force Majeure: If the contract is suspended or terminated by the District because Contractor's performance is prevented or delayed by an event including an irresistible, superhuman cause, or by the act of public enemies of the State of California or of the United States ("Force Majeure"), the Contractor will be paid for Work performed prior to the Force Majeure event at either (i) the unit prices named in the Contract; or (ii) in the event no unit prices are named, a sum equal to the percentage of the total contract amount that matches the percentage of the total contract Work performed prior to the Force Majeure event.

19. DAMAGES

All losses or damages to material or equipment to be furnished pursuant to the Contract Documents occurring prior to receipt and final acceptance of the Work shall be sustained by the Contractor. The Contractor shall sustain all losses arising from unforeseen obstructions or difficulties, either natural or artificial, encountered in the prosecution of the Work, or from any action of the elements prior to final acceptance of the work, or from an act or omission on the part of the Contractor not authorized by the Contract Documents.

20. ORDER OF PRECEDENCE

- a. In the case of conflicts, errors, or discrepancies in any of the Contract Documents, the order of precedence is as follows. Within the same order of precedence, specific requirements shall take precedence over general requirements.
 - i. Approved Change Orders.
 - ii. Addenda.
 - iii. RFQ or RFP.
 - iv. Referenced Standard Specifications and Drawings.
 - v. Contractor's Response Packet.

- b. With reference to drawings:
 - i. Numerical dimensions govern over scaled dimensions.
 - ii. Detailed drawings govern over general drawings.
 - iii. Addenda/Change Order drawings govern over contract drawings.
 - iv. Contract drawings govern over standard drawings.
 - v. Notes apply only to the drawing where the notes appear, unless classified as “typical” or intended to apply elsewhere in which case they apply to all drawings where the conditions or circumstance noted occurs.
 - vi. Typical details apply to all drawings unless a specific different detail is shown.

21. INDEMNIFICATION

Contractor expressly agrees to defend, indemnify, and hold harmless DISTRICT and its Directors, officers, agents and employees from and against any and all loss, liability, expense, claims, suits, and damages, including attorneys’ fees, arising out of or resulting from Contractor's, its associates’, employees’, subconsultants’, or other agents’ negligent acts, errors or omissions, or willful misconduct, in the operation and/or performance under this Agreement.

22. PROHIBITION OF ASSIGNMENT

The Contractor shall not assign, transfer, or otherwise dispose of any of its rights, duties or obligations under this Contract. This prohibition does not apply to the District. The District retains the right to assign this Contract in whole or in part at any time upon reasonable terms.

23. NEWS RELEASES

The Contractor, its employees, subcontractors, and agents shall not refer to the District, or use any logos, images, or photographs of the District for any commercial purpose, including, but not limited to, advertising, promotion, or public relations, without the District's prior written consent. Such written consent shall not be required for the inclusion of the District's name on a customer list.

24. SEVERABILITY

Should any part of the Contract 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 the Contract, which shall continue in full force and effect, provided that the remainder of the Contract can be interpreted to give effect to the intentions of the parties.

25. COVENANT AGAINST GRATUITIES

The Contractor warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the District with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, the District shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by the District in procuring on the open market any items which Contractor agreed to supply shall be borne and paid for by the Contractor. The rights and remedies of the District provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or in equity.

26. RIGHTS AND REMEDIES OF THE DISTRICT

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

27. WAIVER OF RIGHTS

Any action or inaction by the District or the failure of the District on any occasion, to enforce any right or provision of the Contract, shall not be construed to be a waiver by the District of its rights and shall not prevent the District from enforcing such provision or right on any future occasion. Rights and remedies are cumulative and are in addition to any other rights or remedies that the District may have at law or in equity.

28. CONFIDENTIALITY

Contractor agrees to maintain in confidence and not disclose to any person or entity, without the District's prior written consent, any trade secret or confidential information, knowledge or data relating to the products, process, or operation of the District. Contractor further agrees to maintain in confidence and not to disclose to any person or entity, any data, information, technology, or material developed or obtained by Contractor during the term of the Contract. The covenants contained in this paragraph shall survive the termination of this Contract for whatever cause.