

**EAST BAY MUNICIPAL UTILITY DISTRICT  
REQUEST FOR PROPOSAL**



**Consulting Services**

**Pump Station R3000  
San Ramon Valley Recycled Water Program  
Environmental Documentation**

**For**

**East Bay Municipal Utility District**

***RFP Number: WSID1602***

**June 1, 2016**

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## **I. PROJECT DESCRIPTION**

Pump Station R3000 is a new 3.8 MGD recycled water pumping plant, part of the Phase 3 implementation for the San Ramon Valley Recycled Water Program (SRVRWP). Figure 1 identifies alternative pump station site locations. The overall SRVRWP is shown in Figure 2. This additional pump station is needed to deliver recycled water to additional areas of the San Ramon, Danville and Blackhawk communities. Complete CEQA documentation is required before continuing on to the design and construction phases.

The pump station will likely consist of three or four vertical turbine pumps (approximately 350 horsepower total, 3.8 MGD, 2600 gallons per minute), a flow meter and surge provisions. The site footprint will be approximately 60 feet by 90 feet (0.13 acres), with the pumping plant structure approximately 30 feet by 40 feet. Noise reduction construction methods will be implemented, including acoustical louvers in one or two building walls that reduce noise transmission while allowing air circulation.

EBMUD intends to apply for \$11 million in State of California Proposition 1 grant funding for this project, to be administered by the State Water Resources Control Board (SWRCB). Grant funding cannot be secured until CEQA is complete, and CEQA must be completed by November 2016 for the project to be eligible for a grant before state funding is depleted.

Hydraulics and the location of the recycled water pipeline dictate that the new pump station must be located near the intersection of Dougherty Road and Crow Canyon Road in the City of San Ramon. Three pump station locations are being considered, two owned by the City of San Ramon and one owned by EBMUD. Two properties (Site A1 and Site A2) are located in landscaped areas immediately adjacent to Dougherty Road and Crow Canyon Road. One property (Site A4) is located on a hillside next to DERWA recycled water tank R200 at approximate elevation 680 feet, near the small seasonal pond; this property was described in the 2003 DERWA Tank R200 MND. Site A1 was previously reviewed as a buried pumping plant in the Dublin San Ramon Services District – EBMUD Recycled Water Authority (DERWA) SRVRWP 1996 FEIR, certified by the DERWA Board in December 1996.

## **II. SCOPE OF WORK**

East Bay Municipal Utility District (EBMUD or District) intends to enter into an agreement with the Proposer who best meets the District's needs and requirements.

It is the intent of these specifications, terms, and conditions to describe the services required to perform CEQA review and prepare environmental documentation for a new 3.8 MGD recycled water pump station R3000 and associated connection piping in the City of San Ramon, planned as part of the San Ramon Valley Recycled Water Program (SRVRWP). The project tasks detail CEQA work required at three alternative pump station sites, all within a 1 mile radius. Optional services include architectural and landscape design.

**Notice to Proceed for this contract is anticipated to be issued on July 18, 2016. Work needed for EBMUD's Board to consider approval of the CEQA documents needs to be**

**completed by the end of November 2016. Time is of the essence due to grant funding constraints.**

EBMUD will authorize initial work tasks for all three sites; EBMUD will continue authorizing specific tasks based on project schedule and project developments.

Figures 3 and 4 are approximate photo-shopped site renderings of the pump station sites, subject to change.

#### Information To Be Provided By EBMUD

EBMUD will provide the following information on all sites along with the Notice to Proceed:

- Project description (draft)
- Property zoning
- Preliminary site layout (including access roads)
- Estimated number of peak truck trips during construction
- Pump station noise generation criteria from EBMUD Water Treatment and Transmission Systems Improvement Program (WTTIP)
- Project documentation for reference: 1996 SRVRWP FEIR and addendum

EBMUD will provide the geotechnical engineering support. Incorporate EBMUD's geotechnical engineering report into CEQA documentation as needed. EBMUD will provide geotechnical engineering report to consultant by August 15, 2016.

#### CEQA Documentation Expected For Site A1

Site A1 is a small open space on the north side of the intersection of Dougherty Road and Crow Canyon Road. The City of San Ramon owns the property. This pump station location was identified in the DERWA SRVRWP 1996 EIR as a buried pumping plant.

Incorporate EBMUD's geotechnical engineering report into CEQA documentation, if needed.

Based on the context and characteristics of the project, an addendum is expected if any changes to impacts are identified that were not discussed related previously. An addendum is also expected related to aesthetics if the pump station changes to an above grade structure.

#### CEQA Documentation Expected For Sites A2 and A4

For the two sites A2 and A4 not addressed by the 1996 EIR, construction-related impacts are expected to require mitigation measures related to aesthetics, air quality, biological resources, cultural resources, geology / soil, greenhouse gas emissions, hazards / hazardous materials, hydrology / water quality, noise, and transportation / traffic. Substantive impacts are not anticipated with regard to agriculture and forestry, land-use / planning, mineral resources, public services, recreation, population / housing and utilities / service systems. The CEQA document will cover both the short-term and long-term impacts. Long-term environmental impacts are anticipated to be less severe than the construction impacts.

Incorporate EBMUD's geotechnical engineering report into CEQA documentation.

Based on the context and characteristics of the project, a Negative Declaration/Mitigated Negative Declaration (ND/MND) is expected for the proposed SRVRWP Pump Station R3000 Project, because environmental impacts of the new pumping plant and piping are likely to be less than significant or become less than significant with mitigations.

### **SCOPE OF SERVICES**

The scope of services associated with completion of the environmental documentation includes the key items listed below; however, the final scope of work shall be negotiated as part of the professional services agreement to be entered into with EBMUD. Prepare and submit each document listed in individual tasks. Consultants may expand on the content of each task to include details on the proposed scope.

EBMUD review periods shall be 5 working days unless noted otherwise, beginning on a Wednesday or Thursday if possible.

The consultant shall, at a minimum, have the ability, experience, and staff to accomplish the following within the project schedule:

#### **TASK 1. PROJECT INITIATION**

- 1.1 Attend Project Kick Off Meeting.
- 1.2 Attend site visit to three pump station sites (1 mile radius).
- 1.3 Prepare project work plan, including all tasks and deliverables.
- 1.4 Review project materials (1996 FEIR and addendum, SRVRWP MNDs).

#### **TASK 2. PREPARE SUPPLEMENTAL ENVIRONMENTAL DOCUMENTATION FOR SITE A1**

- 2.1 Prepare draft CEQA Checklist (SRF Appendix G) environmental categories (ie, Greenhouse Gases to augment existing 1996 FEIR).
- 2.2 Prepare checklist for an above-grade pump station (1996 FEIR assumed buried pump station).
- 2.3 Finalize CEQA Checklist (incorporating EBMUD's comments).
- 2.4 Recommend level of CEQA documentation required.
- 2.5 Prepare Administrative Draft Addendum if needed.
- 2.6 Prepare Final Addendum if needed, (incorporating EBMUD's comments).

#### **TASK 3. ENVIRONMENTAL INITIAL STUDY AND MND FOR SITES A2 AND A4**

- 3.1 Prepare Initial Study (IS) (EBMUD review period 3 working days).
- 3.2 Provide technical reports as needed: cultural resources, noise, traffic, and biological.
- 3.3 Prepare Administrative Draft MND (incorporating EBMUD's IS comments and geotechnical report).

- 3.4 Prepare Administrative Draft Mitigation and Monitoring Reporting Plan (MMRP), if required.
- 3.5 Prepare public Draft MND and MMRP (incorporating EBMUD's comments after one review meeting).
- 3.6 Screen-check Draft MND and MMRP (back check and formatting comments only) prior to releasing the DMND for printing and distribution (EBMUD review period two working days).
- 3.7 Print 10 copies of the Draft MND and provide electronic copy suitable for posting on EBMUD's website.
- 3.8 File the Notice of Intent and issue the Notice of Availability of the Draft MND to the public.
- 3.9 Prepare final MMRP. After public review period, prepare responses to comments (assume three cities and five individual comments). Prepare revisions to the draft MND and MMRP if needed.
- 3.10 Prepare Findings Resolution for EBMUD Board.
- 3.11 Provide support as EBMUD prepares presentation for EBMUD Board.
- 3.12 File Notice of Determination with County Clerk.

#### **TASK 4. PUBLIC HEARINGS.**

Attend two evening public hearings on the Draft MND. Prepare to make a presentation, respond to questions, and participate in an advisory capacity during these hearings.

#### **TASK 5. PROJECT MANAGEMENT**

Provide project management services for the duration of the contract. Meet with EBMUD staff periodically to review the progress of the project and maintain the schedule and budget. Assume meetings every two weeks for the first eight weeks of the project. Submit monthly invoices and progress reports in a timely manner. The progress report shall include work performed during the invoicing period and budget spent, as well as budgeted work versus cost-to-complete. Coordinate the services of sub-consultants and consultant staff, and ensure consistency, accuracy and timeliness in work products. Maintain thorough documentation of work including log of deliverables, communication with other agencies, and other documentation pertinent to the administrative record.

#### **TASK 6. OPTIONAL SERVICES**

- 6.1 Provide Architectural and landscape design drawings for up to two pump station sites, suitable to obtain the City of San Ramon Use Permit and Architectural Review Board approvals. Include plan and elevation drawings based on layout sketches provided by EBMUD.
- 6.2 Provide CEQA Plus review and documentation.

### Deliverables

Deliverables shall include the following documents in electronic formats (Word and/or Excel, plus searchable .pdf formats, delivery method to be agreed on during contract negotiations):

- Draft Initial Study and Technical Reports
- Final Technical Reports
- Administrative Draft MND and MMRP
- Screen-check Draft MND and MMRP
- Public Draft MND and MMRP , provide 10 hard copies plus one searchable PDF format that is ready for two-sided photocopying (i.e. blank pages inserted so that chapters start on the right hand side page)
- Administrative Draft Final IS, MND and MMRP (for EBMUD internal review)
- Final IS, MND and MMRP
- Mitigation and Monitoring Reporting Plan
- Findings Resolution

Landscape and architectural design drawing formats to be agreed on during contract negotiations.

### **III. PROPOSAL FORMAT**

During the bid period, answers provided to questions posed by prospective Consultants will be distributed to the RFP plan holders during the RFP period.

#### **A. Letter of Transmittal**

The Letter of Transmittal should identify the project manager and other appropriate project team key staff. Because of the nature of the project work and schedule, proposals may be brief letter proposals which detail key items highlighted herein.

#### **B. Qualifications**

The proposal shall demonstrate the proposing firm's experience and expertise in performing CEQA related studies and evaluations for new facilities such as pump stations.

Identify the project team, including the project manager, key staff, their office location, and briefly summarize their qualifications. Include a clear statement of project team responsibilities and allocation of staff identified by name for key tasks. Indicate the portion of time key staff will be available to work on the project during the first two months of the contract. List the related experience of the specific individuals proposed to perform work for the project. Any change of key project staff will require a 30-day notification and approval by the District prior to the change.

### C. Project Approach and Schedule

The proposal shall include a clear discussion of the tasks necessary to complete the Pump Station R3000 environmental documentation. For optional services, include a brief description on approach of each optional task. Provide a proposed schedule for the work effort and denote any necessary resources.

Primary communication with the District will be by email and telephone calls, and when necessary conference calls as well as via meetings at the District's offices, at the Consultant's office, and/or other agency offices or facilities.

### D. References

Provide three references for similar work, including references for key staff member.

### E. Cost Estimate

Provide a time and materials cost estimate for completion of Tasks 1 through 9. Cost breakdowns shall including estimated hours by staff person or job classification, fully loaded hourly rates, raw labor costs, the labor multiplier that will apply to this project (overhead rate and professional fee) for both prime consultant and sub consultants, expenses, other direct costs, subcontractor fees, and annual escalation rates, if any. Annotate the estimate with assumptions about the cost and/or level of effort assumed to complete specific work tasks, including reasonable number of meetings with the District and any other agency and/or regional body. Also provide details should the Consultant see a need for field work including but not limited to site visits.

On a separate document, identify direct labor and cost multipliers. Indicate sub-consultant markups. The prime consultant's markup of all sub consultant costs shall consist of a fixed percentage of those costs. No additional markup will be allowed for second or third tier sub consultants. Also, compounding of markups will not be allowed and no markup will be allowed on other direct expenses.

Develop a work plan and schedule for the project that includes deliverables and dates. The work plan and schedule shall cover the required scope of service.

### F. Contract Equity and Equal Employment Opportunity Forms

Update and complete the following forms required by the District's Contract Equity Program (CEP) (<http://www.ebmud.com/business/contract-equity-program>). Note that payments to subcontractors are monitored over the life of the contract to ensure that they correspond with the levels indicated in the contract documents.

- Form P-025 – Employment Data and Certification (*prime and known subcontractors doing \$70,000 or more worth of work – note that EBMUD asks, for the purpose of responding to this RFP, that these forms be filled out even if the proposed contract amount is less than \$70,000*)
- Form P-040 – Contract Equity Participation (*all proposers*)
- Form P-041 – Good Faith Outreach Efforts Documentation (*first and second successful firms within 48 hours of notification of award*)



- Form P-042 – Contract Equity Program Guidelines Certification (*prime and known subcontractors doing \$70,000 or more worth of work. Note that if the proposed prime contractor's budget proposed is less than \$70,000, EBMUD asks that this form be filled out by the Prime regardless*)
- Form P-046 – Designation of Subcontractors (*all proposers*)

#### G. Conflict of Interest

Note that Bidders are required to provide a list of District employees, if any, who can reasonably be identified as having a financial interest in the Bidder's firm or Bidder's subcontractor(s)' firms(s). "Financial interest," as defined in the California Political Reform Act, Government Code section 87103, includes, for example, an investment of \$2,000 or more, income of \$500 or more, or a gift of \$250 or more, including those of a spouse or dependent child. Bidders may use a separate sheet to report such information. The information may be used by the District solely as a basis for identifying District employees who may, under state law, be prohibited from participating in contract decisions due to a potential conflict of interest. The information submitted will not be used as a basis for determining award action on contract(s) which may be awarded under this proposal.

#### H. Insurance and Indemnification Requirements (Sample Contract)

Indicate that your company's insurance meets the requirements of the enclosed sample contract (Attachments 1 and 2). Indicate any exceptions to the terms and conditions contained in the sample contract.

#### I. Submittal Format and Due Date

The proposal should be submitted according to the schedule below:

EVENT	DATE
<b>RFP Issued</b>	June 1, 2016
<b>Proposal Response Due</b>	by 4:00 p.m. Wednesday, June 15, 2016
<b>Interview (if option exercised by EBMUD)</b>	8:00 a.m. – 12:00 p.m. Monday, June 20, 2016
<b>Select Consultant</b>	June 21, 2016
<b>Contract Negotiation Complete</b>	June 28, 2016
<b>Anticipated Contract Board Award</b>	July 12, 2016
<b>Anticipated Contract NTP</b>	July 18, 2016
<b>Target MND Completion</b>	November 23, 2016

If submitting written proposals, provide four (4) copies by **4:00 PM, June 15, 2016**. Security locks the doors at 4:00 PM. Any proposals (either hard or electronic) with a time/date stamp upon receipt after the due date will be deemed **late submittals and will NOT be accepted**. Electronic proposals will be acceptable with an electronic signature in Adobe Acrobat format. Please keep the file size to a manageable limit of less than five (5) megabytes, if possible.

The District is not responsible for any costs associated with proposal preparation, travel, per diem, and does not guarantee that all or any portion of the work will be awarded.

If the contractor decides to “**No Bid**”, please send a transmittal letter OR email expressing your option not to bid on this RFP.

Mail copies to:

East Bay Municipal Utility District  
Attn: Cindy Hunt, MS #407  
PO Box 24055, Oakland, CA 94623

Or hand deliver/email to:

East Bay Municipal Utility District  
Attn: Cindy Hunt, MS #407  
375 11th Street, 4th floor, Oakland, CA 94607  
[cindy.hunt@ebmud.com](mailto:cindy.hunt@ebmud.com)

District staff will answer questions that arise during the preparation of proposals in writing as an addenda. Questions should be directed to Cindy Hunt at (510) 287-1601 at ([cindy.hunt@ebmud.com](mailto:cindy.hunt@ebmud.com)).

#### **IV. SELECTION CRITERIA**

##### **Process**

All proposals received will be evaluated by the District’s Water Supply Improvements Division, with support from the EBMUD’s Water Distribution Planning Division and Contract Equity Office. Bids will be evaluated according to each of the Evaluation Criteria listed below, and scored according to the zero to five-point. The zero to five-point scale range is defined as follows:

0	Not Acceptable	Non-responsive, fails to meet RFP specification. The approach has no probability of success. If a mandatory requirement this score will result in disqualification of BID.
1	Poor	Below average, falls short of expectations, is substandard to that which is the average or expected norm, has a low probability of success in achieving objectives per RFP.
2	Fair	Has a reasonable probability of success; however, some objectives may not be met.
3	Average	Acceptable, achieves all objectives in a reasonable fashion per RFP specification. This will be the baseline score for each item with adjustments based on interpretation of BID by District.

4	Above Average / Good	Very good probability of success, better than that which is average or expected as the norm. Achieves all objectives per RFP requirements and expectations.
5	Excellent / Exceptional	Exceeds expectations, very innovative, clearly superior to that which is average or expected as the norm. Excellent probability of success in achieving all objectives and meeting RFP specification.

	Evaluation Criteria for Written Proposal	Points Possible
A.	Experience	35
B.	Approach, Understanding of Scope and Schedule	50
C.	Contract Equity	15

Interviews will be conducted only if evaluation of the proposals does not reveal a clearly superior candidate with the best value to the District. Should there be interviews, up to three firms will be notified of their selection and provided with the format. Point scoring and ranking will be conducted individually between the written proposal and interviews and combined with equal weighting, i.e. 65% for written proposal and 35% for interviews.

At the conclusion of the evaluation process, all Proposers will be notified in writing by e-mail or certified mail according to the selection schedule. The Notice of Intent to Award to the EBMUD Board of Directors will provide the name of the Proposer being recommended for contract award.

### **Protests**

Protests must be in writing and must be received no later than seven (7) business days after either of the following: posting of the RFP results on the District's website ([www.ebmud.com](http://www.ebmud.com)), or notification of selection/non-selection, whichever is sooner. The District will reject the protest as untimely if it is received after this specified time frame. Protests will be accepted from Proposers or potential Proposers only.

If the protest is mailed and not received by the District, the protesting party bears the burden of proof to submit evidence (e.g., certified mail receipt) that the protest was sent in a timely manner so that it would be received by the District within the RFP protest period. All protests must contain a detailed and complete written statement describing the reason(s) for protest and include the name, telephone number, and address of the protestor or the person representing the protestor. Protests must be mailed or hand delivered to the Manager of Purchasing, East Bay Municipal Utility District, 375 Eleventh Street, Oakland, CA 94607 or PO Box 24055, Oakland, CA 94623. Facsimile and electronic mail protests must be followed by a mailed or hand

delivered identical copy of the protest. 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.

### **Selection Schedule**

EVENT	DATE
RFP Issued	June 1, 2016
Proposal Response Due	by 4:00 p.m. Wednesday June 15, 2016
Interview (if option exercised by EBMUD)	8:00 a.m. – 12:00 p.m. Monday, June 20, 2016
Select Consultant	June 21, 2016
Contract Negotiation Complete	June 28, 2016
Anticipated Contract Board Award	July 12, 2016
Anticipated Contract NTP	July 18, 2016

### **Proposal Evaluation**

The proposal evaluation team will rank and score all proposals received. Selection will be based on the relative merits of the proposals. The evaluation team will recommend award to the Proposer who, in its opinion, has submitted the RFP response that best serves the overall interest of the District. Award may not necessarily be made to the Proposer with the lowest price. Proposals will be evaluated and numerically scored according to the following criteria:

*Experience:* District staff will assess the respondent's experience to ensure that it has performed satisfactorily on other relevant (technically and geographically) projects in the past. Previous experience of the company and project team will be an important consideration. The consultant's project manager is expected to direct all work, take responsibility for its proper execution of work, schedule and budget, and be the primary point of contact for the District's project manager.

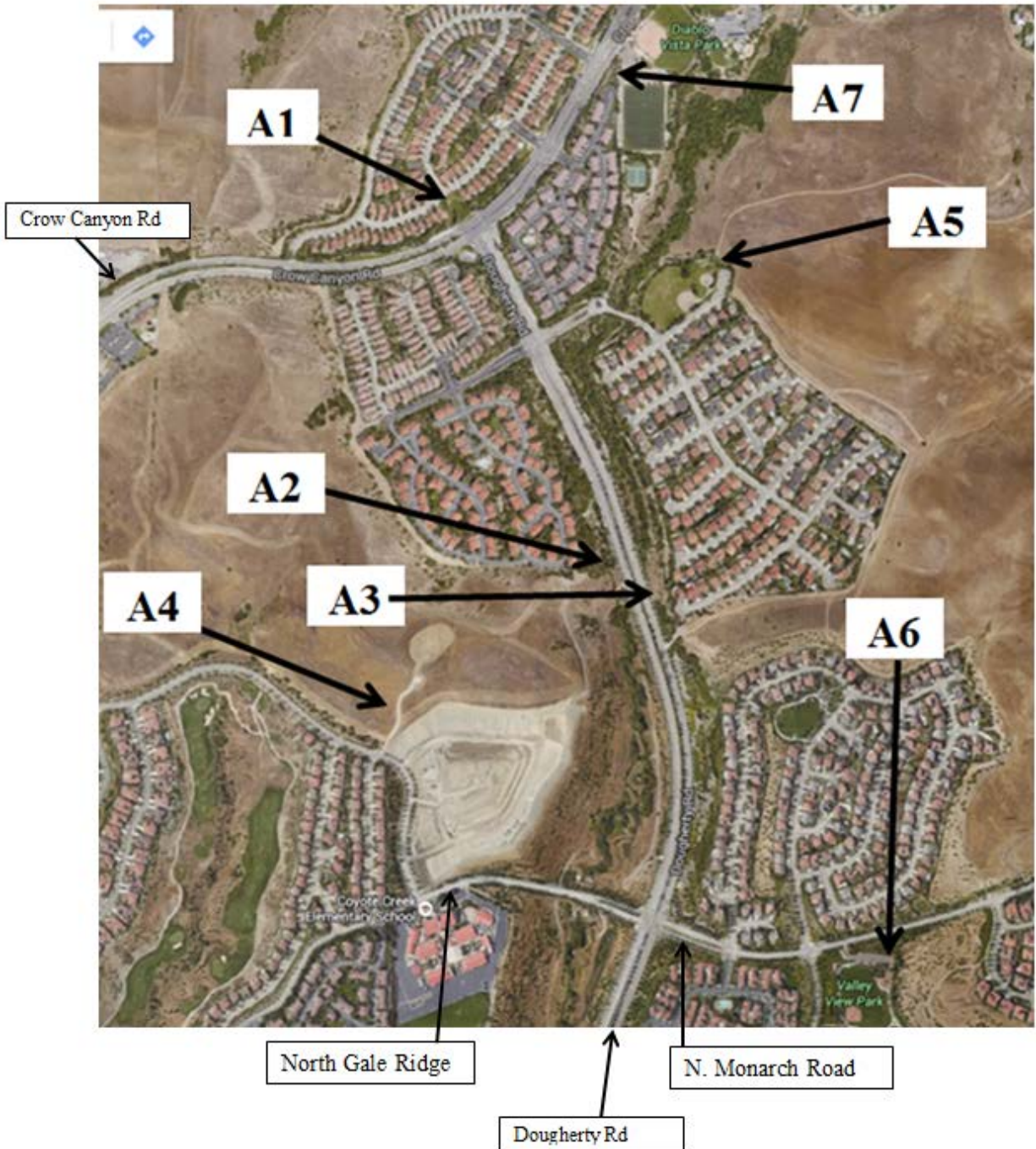
*Approach Toward Fulfilling the Scope of Services and Meeting Project Schedule:* District staff will evaluate the respondent's understanding of the scope of services and the respondent's approach toward fulfilling the work in a timely manner that meets project schedule driven in part by eligibility to compete for State funding, maintaining the budget, ensuring data quality, and producing accurate and concise deliverables.

*Contract Equity:* It is the District's policy to enhance equal opportunities for business owners of all races, ethnicities and gender who are interested in doing business with EBMUD. It is also the District's policy that all business enterprises and subcontractors doing business with EBMUD must be Equal Employment Opportunity (EEO) employers. The Contract Equity and EEO forms will indicate how these objectives may be met for this contract.

Any specifications, terms, or conditions issued by the District, or those included in the Proposer's submission, in relation to this RFP, may be incorporated into any purchase order or contract that may be awarded as a result of this RFP.

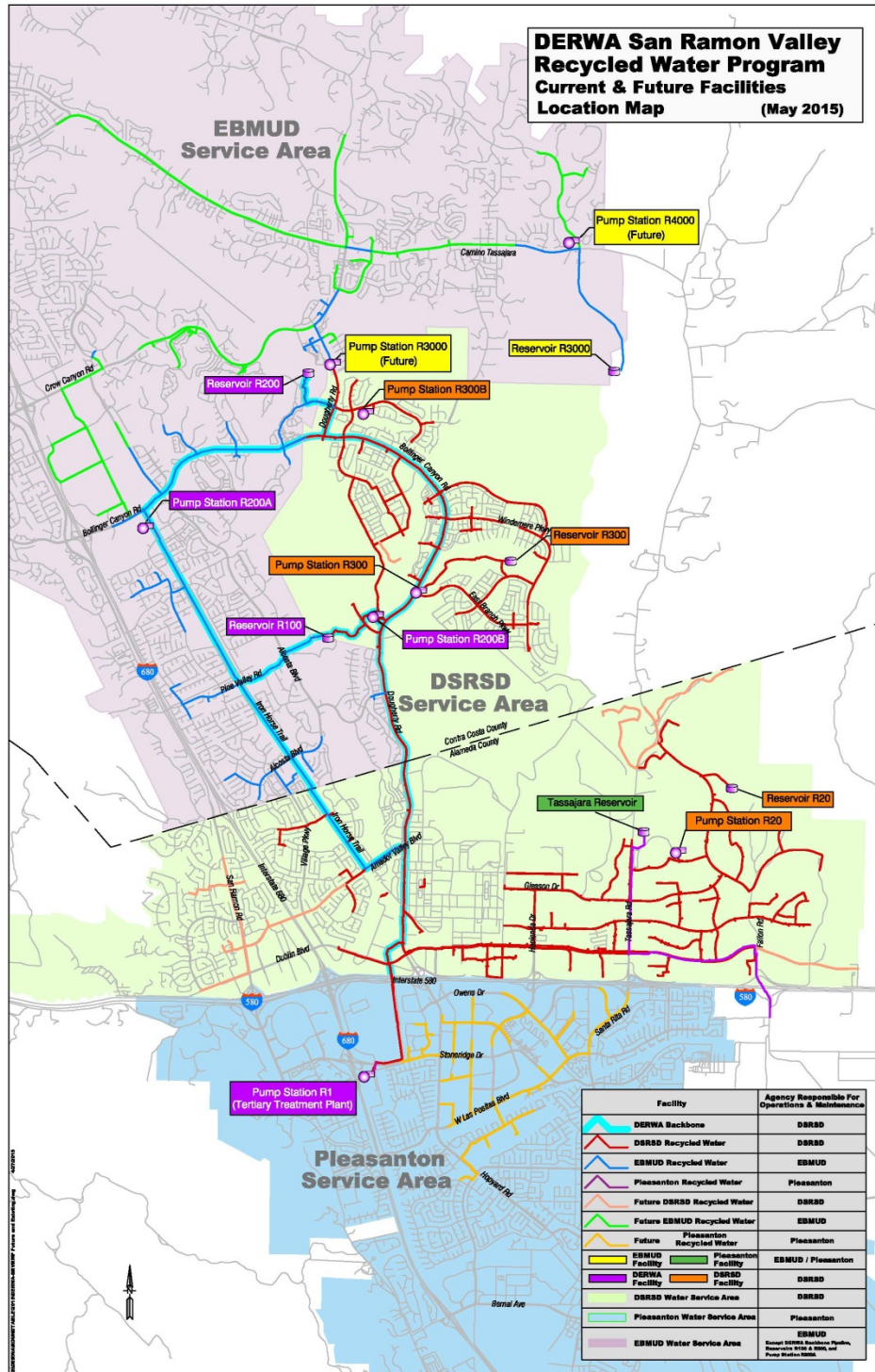
## Figure 1– Site Locations

**Figure 1 Alternative Site Locations**  
**Pump Station R3000, San Ramon Valley Recycled Water Program**



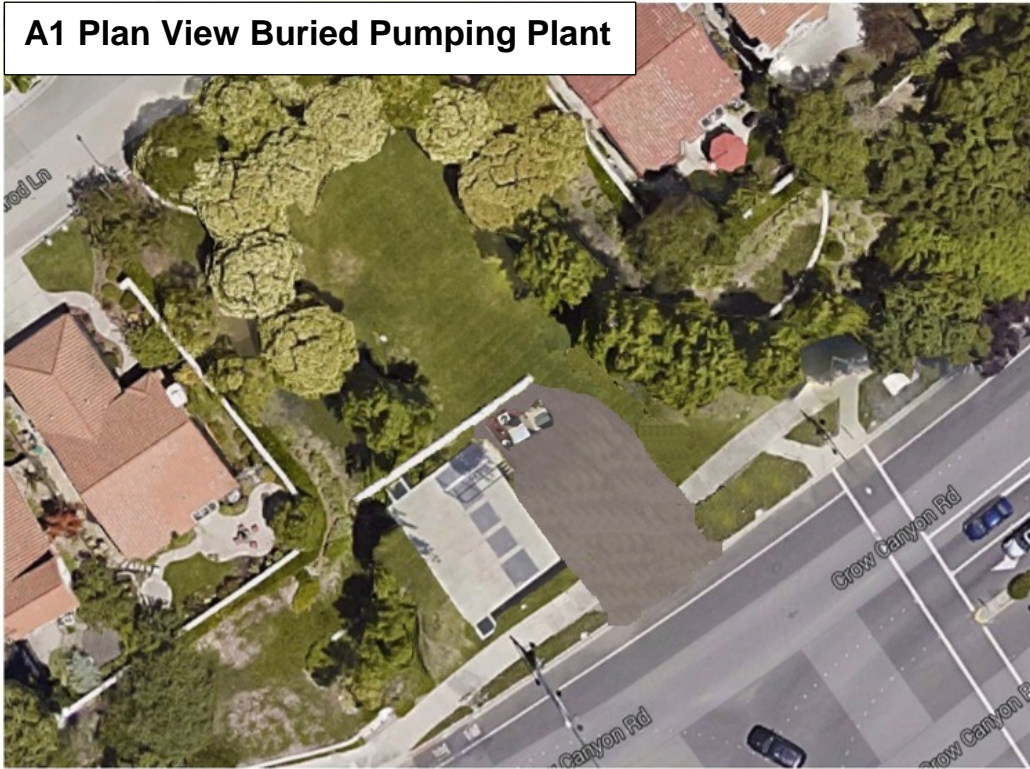


**Figure 2 – San Ramon Valley Recycled Water Distribution System**



**Figure 3– Site A1**

**A1 Plan View Buried Pumping Plant**



**A1 Plan View Above Grade Pumping Plant**





**Figure 4– Site A2**

**A2 Dougherty Road, West Side, Elevation View**



**A2 Dougherty Road, West Side, Plan View**





**Figure 5– Site A4**



**ATTACHMENT 1**  
**SRVRWP Pump Station R3000 Environmental Documentation RFP**  
**Standard Consulting Agreement**

*(Standard Consulting Agreement for  
Contracts Greater than \$70,000 - Revised 3/24/14)*  
*(Note: Reference District Procedure No. 451)*  
**CONSULTING AGREEMENT**  
**FOR**  
**EAST BAY MUNICIPAL UTILITY DISTRICT**

*(Project Title)*

THIS Agreement is made and entered into this \_\_\_\_\_ day of (*month*), 201\_, by and between **EAST BAY MUNICIPAL UTILITY DISTRICT**, a public entity, hereinafter called "DISTRICT," and (*CONSULTANT'S FULL LEGAL NAME, BOLD, ALL CAPS followed by type of entity [ corporation, etc. ]*), hereinafter called "CONSULTANT."

**WITNESSETH**

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

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

WHEREAS, CONSULTANT has submitted a proposal to provide consulting services for (*state type - "preparation of planning documents", "preparation of design documents", or "construction management support services"*) for the (*project title*) and CONSULTANT represents that it has the experience, licenses, qualifications, staff expertise and where necessary the required Department of Industrial Relations (DIR) registration to perform said services in a professional and competent manner; and

***IF OVER \$70,000:***

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

***-OR- IF BETWEEN \$30,000 AND \$70,000:***

WHEREAS, DISTRICT has authorized the contract by approval of the General Manager.

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

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

- 1.1 CONSULTANT agrees to furnish services set forth in Exhibit A, Scope of Services, attached hereto and incorporated herein. The services authorized under this Agreement shall also include all reports, manuals, plans, and specifications as set forth in Exhibit A.
- 1.2 CONSULTANT's work products shall be completed and submitted in accordance with DISTRICT's standards specified, and according to the schedule listed, in Exhibit A. The completion dates specified herein may be modified by mutual agreement between DISTRICT and CONSULTANT provided that DISTRICT's Project Manager notifies CONSULTANT of modified completion dates by letter. CONSULTANT agrees to diligently perform the services to be provided under this Agreement. In the performance of this Agreement, time is of the essence.
- 1.3 It is understood and agreed that CONSULTANT has the professional skills necessary to perform the work agreed to be performed under this Agreement, that DISTRICT relies upon the professional skills of CONSULTANT to do and perform CONSULTANT's work in a skillful and professional manner, and CONSULTANT thus agrees to so perform the work. CONSULTANT represents that it has all the necessary licenses to perform the work and shall maintain them during the term of this Agreement. CONSULTANT agrees that the work performed under this Agreement shall follow practices usual and customary to the (*state type - for example "engineering"*) profession and that CONSULTANT is the engineer in responsible charge of the work for all activities performed under this Agreement. Acceptance by DISTRICT of the work performed under this Agreement does not operate as a release of CONSULTANT from such professional responsibility for the work performed.
- 1.4 CONSULTANT agrees to maintain in confidence and not disclose to any person or entity, without DISTRICT's prior written consent, any trade secret or confidential information, knowledge or data relating to the products, process, or operation of DISTRICT. CONSULTANT further agrees to maintain in confidence and not to disclose to any person or entity, any data, information, technology, or material developed or obtained by CONSULTANT during the term of this Agreement. The covenants contained in this paragraph shall survive the termination of this Agreement for whatever cause.
- 1.5 The originals of all computations, drawings, designs, graphics, studies, reports, manuals, photographs, videotapes, data, computer files, and other documents prepared or caused to be prepared by CONSULTANT or its subconsultants in connection with these services shall be delivered to and shall become the exclusive property of DISTRICT. DISTRICT is licensed to utilize these documents for DISTRICT applications on other projects or

extensions of this project, at its own risk. CONSULTANT and its subconsultants may retain and use copies of such documents, with written approval of DISTRICT.

- 1.6 CONSULTANT is an independent contractor and not an employee of DISTRICT. CONSULTANT expressly warrants that it will not represent that it is an employee or servant of DISTRICT.
- 1.7 CONSULTANT is retained to render professional services only and all payments made are compensation solely for such services as it may render and recommendations it may make in carrying out the work.
- 1.8 It is further understood and agreed by the parties hereto that CONSULTANT in the performance of its obligations hereunder is subject to the control or direction of DISTRICT as to the designation of tasks to be performed, the results to be accomplished by the services hereunder agreed to be rendered and performed, and not the means, methods, or sequence used by the CONSULTANT for accomplishing the results.
- 1.9 If, in the performance of this agreement, any third persons are employed by CONSULTANT, such person shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. All terms of employment, including hours, wages, working conditions, discipline, hiring, and discharging, or any other terms of employment or requirements of law, shall be determined by CONSULTANT, and DISTRICT shall have no right or authority over such persons or the terms of such employment.
- 1.10 It is further understood and agreed that as an independent contractor and not an employee of DISTRICT, neither the CONSULTANT nor CONSULTANT's assigned personnel shall have any entitlement as a DISTRICT employee, right to act on behalf of DISTRICT in any capacity whatsoever as agent, nor to bind DISTRICT to any obligation whatsoever. CONSULTANT shall not be covered by DISTRICT's worker's compensation insurance; nor shall CONSULTANT be entitled to compensated sick leave, vacation leave, retirement entitlement, participation in group health, dental, life or other insurance programs, or entitled to other fringe benefits payable by DISTRICT to employees of DISTRICT.

## **ARTICLE 2 - COMPENSATION**

- 2.1 For the Scope of Services described in Exhibit A, DISTRICT agrees to pay CONSULTANT actual costs incurred, subject to a Maximum Cost Ceiling of **\$(dollars)**, plus a Professional Fee (prorata dollar profit). The Professional Fee shall be subject to a Professional Fee Ceiling of **\$(dollars)**. Total compensation under the Agreement shall not exceed a Maximum Agreement Ceiling of **\$(dollars)**. Compensation for services shall be in accordance with the method and amounts described in Exhibit B, attached hereto and incorporated herein. CONSULTANT acknowledges that construction work on public works projects requires DIR registration and is subject to prevailing wage rates and

includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work. CONSULTANT certifies that the proposed cost and pricing data used herein reflect the payment of prevailing wage rates where applicable and are complete, current, and accurate.

- 2.2 In case of changes affecting project scope resulting from new findings, unanticipated conditions, or other conflicts or discrepancies, CONSULTANT shall promptly notify DISTRICT of the identified changes and advise DISTRICT of the recommended solution. Work shall not be performed on such changes without prior written authorization of DISTRICT.

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

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

*(Include the following paragraph only if your scope of services includes Optional Services.)*

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

### **ARTICLE 4 - TERMINATION**

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

*(Optional)*

- 4.3 This Agreement may be terminated by CONSULTANT upon 10 days written notice to DISTRICT only in the event of substantial failure by DISTRICT to fulfill its obligations under this Agreement through no fault of the CONSULTANT.
- 4.4 If this Agreement is terminated, payment of the Professional Fee shall be in proportion to the percentage of work that DISTRICT judges satisfactorily performed up to the effective date of termination. The Professional Fee shall be prorated based upon a ratio of the actual Direct Labor and Indirect Costs expended to date divided by the Cost Ceiling.

## **ARTICLE 5 - PROJECT MANAGERS**

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

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

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

***[Paragraph 6.2 to be used when there is subcontracting/subconsulting opportunities. See CEP office for details.]***

- 6.2 Designated CEP compliance for the duration of this Agreement is listed in Exhibit C, which is attached hereto and incorporated herein. CONSULTANT shall maintain records of the total amount actually paid to each subconsultant. Any change of CONSULTANT'S listed subconsultants shall be subject to approval by the DISTRICT'S Project Manager.

**SRVRWP Pump Station R3000 Env. Doc. RFP –  
See attached Indemnification and Insurance Attachment 2**

**ARTICLE 7 – INDEMNIFICATION AND INSURANCE**

~~(Insurance criteria may vary—refer to the Risk Management Section Guidelines. Contact the Risk Management Section for copy of latest version.)~~

~~(IF DEPT. WANTS TO MODIFY INDEMNITY LANGUAGE, PLEASE SUBMIT JUSTIFICATION IN WRITING TO LEGAL, CC: RISK MANAGER.)~~

~~(FOR DESIGN PROFESSIONAL CONTRACTS (ENGINEERS, ARCHITECTS, LANDSCAPE ARCHITECTS, LAND SURVEYORS OR THEIR FIRMS), USE 7.1 BELOW:~~

~~7.1 — Indemnification~~

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

~~(OR if contract is NOT with a design professional (engineers, architects, landscape architects, land surveyors or their firms) USE THIS PARAGRAPH 7.1 INSTEAD:~~

~~7.1 — Indemnification~~

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

~~7.2 — (For construction management support Agreements only)~~

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

7.3 — ~~(For construction management support Agreements only)~~

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

7.4 — ~~(For construction management support Agreements only — include only if design consultant and CM consultant are not the same)~~

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

7.5 — Insurance Requirements

~~CONSULTANT shall take out and maintain during the life of the Agreement all the insurance required in this ARTICLE, and shall submit certificates for review and approval by DISTRICT. The Notice to Proceed shall not be issued, and CONSULTANT shall not commence work until such insurance has been approved by DISTRICT. The certificates shall be on forms provided by DISTRICT. (see~~  
~~[\\EBMUD\\_DATA\\_04\DATA\INFO\Forms Shop\UF020-28.doc](#);~~  
~~[\\EBMUD\\_DATA\\_04\DATA\INFO\Forms Shop\uf020-30.doc](#);~~  
~~[\\EBMUD\\_DATA\\_04\DATA\INFO\Forms Shop\UF020-33.doc](#);~~  
~~[\\EBMUD\\_DATA\\_04\DATA\INFO\Forms Shop\UF020-29.doc](#) print out for consultant's use)~~

~~Acceptance of the certificates shall not relieve CONSULTANT of any of the insurance requirements, nor decrease the liability of CONSULTANT. DISTRICT reserves the right to require CONSULTANT to provide insurance policies for review by DISTRICT.~~

7.6 — Workers Compensation Insurance

~~CONSULTANT shall take out and maintain during the life of the Agreement, Workers Compensation Insurance, for all of its employees on the project. In lieu of evidence of Workers Compensation Insurance, DISTRICT will accept a Self Insured Certificate from the State of California. CONSULTANT shall require any subconsultant to provide it with evidence of Workers Compensation Insurance.~~

7.7 — Commercial General Liability Insurance

~~CONSULTANT shall take out and maintain during the life of the Agreement Automobile and General Liability Insurance that provides protection from claims which may arise~~



~~from operations or performance under this Agreement. If CONSULTANT elects to self-insure (self fund) any liability exposure during the contract period above \$50,000, CONSULTANT is required to notify the DISTRICT immediately. Any request to self-insure must first be approved by the DISTRICT before the changed terms are accepted. CONSULTANT shall require any subconsultant to provide evidence of liability insurance coverages.~~

~~The amounts of insurance coverages shall not be less than the following:~~

~~\$2,000,000/Occurrence, Bodily Injury, Property Damage—Automobile.~~

~~\$2,000,000/Occurrence, Bodily Injury, Property Damage—General Liability.~~

~~The following coverages or endorsements must be included in the policy(ies): *(Use only those coverages that apply and type [x] in boxes on Public Liability Certificate. Questions should be directed to Risk Management, x0177.)*~~

- ~~1. DISTRICT and its Directors, officers, and employees are additional insureds in the policy(ies) as to the work being performed under this Agreement;~~
- ~~2. The coverage is primary and non-contributory to any other insurance carried by DISTRICT;~~
- ~~3. The policy(ies) cover(s) contractual liability for the assumption of liability through the indemnity in this Agreement;~~
- ~~4. The policy(ies) is(are) written on an occurrence basis;~~
- ~~5. The policy(ies) cover(s) broad form property damage liability;~~
- ~~6. The policy(ies) cover(s) personal injury (libel, slander, and trespass) liability;~~
- ~~7. The policy covers explosion, collapse and underground hazards (construction contracts only).~~
- ~~8. The policy(ies) cover(s) products and completed operations.~~
- ~~9. The policy(ies) cover(s) use of non-owned automobiles and equipment.~~
- ~~10. The policy(ies) shall cover Pollution liability for claims related to the release or threatened release of pollutants into the environment arising out of or resulting from CONSULTANT's performance under this Agreement.~~
- ~~11. The policy(ies) shall not be canceled nor materially altered unless 30 days' written notice is given to DISTRICT.~~

## 7.8 — Professional Liability Insurance

~~CONSULTANT shall take out and maintain during the life of the Agreement, professional liability insurance (Errors and Omissions) with a minimum of \$1,000,000 of liability coverage. A deductible may be acceptable upon approval of the DISTRICT. The policy shall provide 30 days advance written notice to DISTRICT for cancellation or reduction in coverage.~~

## **ARTICLE 8 - NOTICES**

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

*(consulting firm's name)*

*(address)*

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

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

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

Director of *(Wastewater Department or Engineering and Construction Department)*

P.O. Box 24055

Oakland, CA 94623-1055

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

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

## **ARTICLE 9 - MISCELLANEOUS**

9.1 This Agreement represents the entire understanding of DISTRICT and CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may only be modified by amendment in writing signed by each party.

9.2 This Agreement is to be binding on the successors and assigns of the parties hereto. The services called for herein are deemed unique and CONSULTANT shall not assign, transfer or otherwise substitute its interest in this Agreement or any of its obligations hereunder without the prior written consent of DISTRICT.

- 9.3 Should any part of this Agreement be declared by a final decision by a court or tribunal of competent jurisdiction to be unconstitutional, invalid or beyond the authority of either party to enter into or carry out, such decision shall not affect the validity of the remainder of this Agreement, which shall continue in full force and effect, provided that the remainder of this Agreement can be interpreted to give effect to the intentions of the parties.
- 9.4 Multiple copies of this Agreement may be executed by the parties and the parties agree that the Agreement on file at the DISTRICT is the version of the Agreement that shall take precedence should any differences exist among counterparts of the Agreement.
- 9.5 This Agreement and all matters relating to it shall be governed by the laws of the State of California.
- 9.6 The District's waiver of the performance of any covenant, condition, obligation, representation, warranty or promise in this agreement shall not invalidate this Agreement or be deemed a waiver of any other covenant, condition, obligation, representation, warranty or promise. The District's waiver of the time for performing any act or condition hereunder does not constitute a waiver of the act or condition itself.
- 9.7 There shall be no discrimination in the performance of this contract, against any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, gender including gender identity or expression, age, marital or domestic partnership status, mental disability, physical disability (including HIV and AIDS), medical condition (including genetic characteristics or cancer), veteran or military status, family or medical leave status, genetic information, or sexual orientation. CONSULTANT shall not establish or permit any such practice(s) of discrimination with reference to the contract or any part. CONSULTANTS determined to be in violation of this section shall be deemed to be in material breach of this Agreement.

**Consultant shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin in the performance of this contract. Moreover, these regulations require that covered prime 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.**

CONSULTANT shall include the nondiscrimination provisions above in all subcontracts.

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

**ARTICLE 10 - TERM**

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

*(NOTE: do not have a page break leaving signatures by themselves—must have at least the “in witness whereof” paragraph on signature page)*

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

**EAST BAY MUNICIPAL UTILITY DISTRICT**

By: \_\_\_\_\_ Date \_\_\_\_\_  
(Name),  
(Insert title - Director of Engineering and Construction or Manager of Support Services)

Approved As To Form

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

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

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

## **EXHIBIT A**

### **East Bay Municipal Utility District (Project Title)**

#### **SCOPE OF SERVICES**

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

CONSULTANT shall provide the following:

###### Contracted Services

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

###### Optional Services

*(State each task with associated task number)*

##### **II. PROJECT SCHEDULE**

*(List schedule milestones and completion dates)*

## EXHIBIT B

### East Bay Municipal Utility District (Project Title)

#### COMPENSATION

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

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

##### 2.1 Direct Labor

Direct labor costs shall be the total number of hours worked on the job by each employee times the actual hourly rate for such employee's labor. Hours worked shall be rounded-up to the nearest quarter-hour (0.25) increment. Labor costs for principals shall be based upon the actual hourly rate of pay for those individuals. Labor rates shall be based on a normal 8-hour day, 40-hour week. DISTRICT will pay all personnel at their regular rate including any work performed on overtime or on holidays or weekends.

##### 2.2 Indirect Costs

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

- Clerical, word processing and/or accounting work.
- Vehicle usage and mileage between CONSULTANT's office and DISTRICT service area.
- Parking (DISTRICT does NOT provide parking to CONSULTANT in the DISTRICT Administration Building, located at 375 11th Street, Oakland, California. CONSULTANT shall be responsible for parking elsewhere).

- Postage, or for certified or registered mail. Extraordinary postage, overnight delivery, or messenger delivery charges must be approved in advance.
- Routine copying costs for in-house copying.
- Local telephone charges, including cellular phone, modem and telecopier/FAX charges.
- Office space lease.
- Office supplies.
- Computer equipment.
- Computer usage charges.
- Books, publications and periodicals.
- Insurance.
- Miscellaneous hand tools or equipment rental.
- Safety training, seminars or continuing education.
- Utilities.
- Meals, transportation or other charges.
- Inadequately described or miscellaneous expenses.

The above items are illustrative, rather than exhaustive.

### 2.3 Subconsultant Services

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

### 2.4. Other Direct Costs

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

- 2.4.1. Automobile expenses at (*insert rate*) cents per mile when CONSULTANT is required to travel outside of the DISTRICT's service area. Mileage will NOT be reimbursed for rental car expenses, where the rental agreement specifies unlimited mileage.
- 2.4.2. DISTRICT will pay for necessary and reasonable travel expenses provided the travel is approved in advance by DISTRICT Project Manager, and providing that:
  - Each expense is separately identified (air fare, hotel, rental car) with an amount and date incurred. Confirming documents may be requested.
  - Charged mileage for vehicle mileage shall not exceed the current allowable Internal Revenue Service rate.

- Air travel is coach or economy rate for refundable tickets. Business and first class rates will not be reimbursed.
- Lodging accommodations are moderately priced.
- Meal charges are reasonable. (Reimbursement for meals will only be made in conjunction with out-of-town travel.)
- Taxis or shuttles are used rather than rental cars whenever cost effective.
- Rental cars are intermediate or compact class only.

## 2.5 Professional Fee

As a portion of the total compensation to be paid to CONSULTANT, DISTRICT shall pay the Professional Fee, subject to the agreed Professional Fee Ceiling of **\$(dollars)** as specified in Exhibit B-1, as profit for services rendered by CONSULTANT covered by this Agreement. CONSULTANT shall earn the Professional Fee based on a **(insert rate)** percent markup of CONSULTANT's Direct Labor and Indirect Costs billed and approved.

## 2.6 Budget Amounts

	<u>Contracted Services</u>	<u>Optional Services</u>	<u>Maximum Services*</u>
Cost Ceiling	<b>\$(dollars)</b>	<b>\$(dollars)</b>	<b>\$(dollars)</b>
Professional Fee Ceiling	<b>(dollars)</b>	<b>(dollars)</b>	<b>(dollars)</b>
Agreement Ceiling	<b>(dollars)</b>	<b>(dollars)</b>	<b>(dollars)</b>

***\* (Maximum Services is the sum of Contracted and Optional Services. If your scope has no Optional Services, delete the Contracted and Optional Services columns.)***

The Cost Ceiling shown above is based upon the cost estimate and labor hours attached hereto as Exhibit B-1 and Exhibit B-2. Costs described above, comprising Direct Labor, Indirect Costs, Subconsultant Services, Other Direct Costs, and Professional Fee, shall be payable up to the Agreement Ceiling as specified herein.

## 2.7 Billing and Payment

CONSULTANT shall invoice DISTRICT monthly for the actual costs incurred and a prorated Professional Fee for work performed during the previous month. Actual costs shall include Direct Labor, Indirect Costs, Subconsultant Services, and Other Direct Costs as specified herein. Actual costs shall be invoiced by task as described in Exhibit A. Invoices shall set forth a description of the actual costs incurred and the services performed, the date the services were performed and the amount of time spent rounded to the nearest quarterly hour increment (.25) on



each date services were performed and by whom. Supporting documentation for the invoice shall be organized to clearly identify the task charged and shall be supported by such copies of invoices, payroll records, and other documents as may be required by DISTRICT to authenticate invoiced costs. Copies of all invoices from any subconsultant(s) and outside service(s) shall be attached. *(Insert the following sentence if paragraph 2.9 below applies and is included in agreement. "Where CONSULTANT is required by law to pay prevailing wage rates, supporting documentation for such work shall be in accordance with guidelines set forth below and shall include certified payroll reports. ")* DISTRICT shall pay CONSULTANT within thirty (30) days, upon receipt of a proper CONSULTANT invoice, *(Optional insert - include the following words here only if retention will be accumulated: "the amount invoiced less a ten percent (10%) retention amount,")*, provided that all invoices are accompanied by sufficient cost documentation, and DISTRICT Form P-47 (Subcontractor Payment Report - CEP Participation), to allow the determination of the reasonableness and accuracy of said invoice. *(Optional insert - include the following sentence here only if retention will be accumulated: "The retention accumulated to date shall be paid by DISTRICT upon DISTRICT's acceptance of the final version of all documents specified in ARTICLE 1 - SCOPE OF WORK, paragraph 1.6.")*

A ceiling price is in effect for the entire Scope of Services. If the authorized Agreement Ceiling, including the authorized Professional Fee Ceiling, is reached, CONSULTANT shall complete the agreed-upon work for the authorized Agreement Ceiling. Labor hours may be reallocated within the tasks without renegotiation of the Agreement with written approval from the DISTRICT Project Manager in such a manner so as not to exceed the Agreement ceiling price. In no event shall the Cost Ceiling of the Agreement or the Professional Fee Ceiling be increased unless there is a written amendment of this Agreement.

## 2.8 Budget Status Reports

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

## 2.9. Prevailing Wages and Other Requirements for Construction Inspection, and Construction Related Work During Design and Preconstruction Phases of Construction. *(Optional Insert – include this paragraph 2.9 and all its*

***subparagraphs if your Scope of Services includes construction, alteration, demolition, installation, maintenance, repair work, or other construction related work during the design or preconstruction phases of construction including but not limited to inspection and land surveying.)***

- 2.9.1 All Contractors and Subcontractors of any tier bidding on, or offering to performing work on a public works project shall first be registered with the State Department of Industrial Relations (DIR) pursuant to Section 1725.5 of the Labor Code. No bid will be accepted nor any contract entered into without proof of the Contractor and Subcontractors' current registration with the DIR (LC § 1771.1).
- 2.9.2 All public works projects awarded after January 1, 2015, are subject to compliance monitoring and enforcement by the DIR (LC § 1771.4) and all Contractors are required post job site notices, "as prescribed by regulation" (LC § 1771.4).
- 2.9.3 Pursuant to Section 1773 of the Labor Code, the District has obtained from the Director of Industrial Relations of the State of California, the general prevailing rates of per diem wages and the general prevailing rates for holiday and overtime work in the locality in which the Work is to be performed, for each craft, classification, or type of worker needed to execute the contract. A copy of the prevailing wage rates is on file with the District and available for inspection by any interested party at [www.dir.ca.gov](http://www.dir.ca.gov).
- 2.9.4 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.
- 2.9.5 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.
- 2.9.6 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.
- 2.9.7 General prevailing wage determinations have expiration dates with either a single asterisk or a double asterisk. Pursuant to California Code of Regulations, Title 8, Section 16204, the single asterisk means that the

general prevailing wage determination shall be in effect for the specified contract duration. The double asterisk means that the predetermined wage modification shall be paid after the expiration date. No adjustment in the Contract Sum will be made for the Contractor's payment of these predetermined wage modifications.

- 2.9.8 The 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
- 2.9.9 For public works projects awarded on or after April 1, 2015, or that are still ongoing after April 1, 2016, no matter when awarded, each Contractor and Subcontractor shall furnish the certified payroll related records as more specifically described above and in Labor Code section 1776 directly to the Labor Commissioner (see LC § 1771.4). These records shall be provided to the Labor Commissioner at least monthly or more frequently if required by the terms of the Contract. For exception on projects covered by collective bargaining agreements like a PLA, please see Labor Code section 1771.4.
- 2.9.10 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.
- 2.9.11 Pursuant to the provisions of Sections 1810, et seq. of the Labor Code the time of service of any worker employed upon the work shall be limited and restricted to eight hours during any one calendar day, and forty hours during any one calendar week, unless work performed by employees of 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.

- 2.9.12 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 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 the provisions of Labor Code, Sections 1810, et seq.
- 2.9.13 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.
- 2.9.14 In the performance of a public works 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. In the event the Contractor or any Subcontractor willfully fails to comply with this requirement the Contractor or Subcontractor shall be subject to the penalties for noncompliance in Labor Code section 1777.7.
- 2.9.15 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/wpnode.html>.

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

**EXHIBIT B-1**

**East Bay Municipal Utility District**  
*(Project Title)*

## COST DISTRIBUTION

<u>Consultant</u>							<u>Subconsultants</u>						
<u>Direct Labor</u>					<u>Sub. #1</u>			<u>Sub. #2</u>					
Project Manager	Project Engineer	Drafting		Indirect	Project Eng.	Assist. Eng.	Total	Project Eng.	Assist. Eng.	Total	Profes- sional Fee**	Total	
Salary Rate (\$/hr.)	Salary Rate (\$/hr.)	Salary Rate (\$/hr.)	Salary Rate (\$/hr.)	Salary Rate (\$/hr.)	Salary Rate (\$/hr.)	Salary Rate (\$/hr.)	Salary Rate (\$/hr.)	Salary Rate (\$/hr.)	Salary Rate (\$/hr.)	Salary Rate (\$/hr.)	Salary Rate (\$/hr.)	Salary Rate (\$/hr.)	
<u>(****)</u>	<u>(****)</u>	<u>(****)</u>	<u>Total</u>	<u>Costs</u>	<u>ODCs*</u>	<u>(****)</u>	<u>(****)</u>	<u>Cost</u>	<u>(****)</u>	<u>(****)</u>	<u>Cost</u>	<u>Cost</u>	
Services													

## I. Contracted Services

### Task 1.1:

### Task 1.2:

### Task 2.1:

### Task 2.2:

Subtotal I.

$$(\ast\ast\ast) \quad (\ast\ast\ast) \quad (\ast\ast\ast) \quad (\ast\ast\ast) \quad (\ast\ast\ast) \quad (\ast\ast\ast)$$

## II. Optional Services

### Task 3:

### Task 4:

Subtotal II.

$$(\ast\ast\ast) \quad (\ast\ast\ast) \quad (\ast\ast\ast) \quad (\ast\ast\ast) \quad (\ast\ast\ast) \quad (\ast\ast\ast)$$

TOTAL Agreement (Total of Subtotals I. &amp; II.)

\* ODCs = Other Direct Costs.

\*\* Professional Fee on consultant Direct Labor& Indirect Costs only. Should not include prime consultant markup on subconsultants.

\*\*\* Amount includes prime consultant markup on subconsultant.

\*\*\*\* *Insert salary rate.*

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

## EXHIBIT B-2

### East Bay Municipal Utility District (Project Title)

#### LABOR DISTRIBUTION

	Consultant				Subconsultants						
	Project Manager	Project Engineer	Drafting	Subtotal	Project Eng.	Sub. #1		Sub. #2			Total
						Assist. Eng.	Subtotal	Project Eng.	Assist. Eng.	Subtotal	
<u>Services(*)</u>											
I. Contracted Services											
Task 1.1:											
Task 1.2:											
Task 2.1:											
Task 2.2:											
Subtotal											
II. Optional Services											
Task 3:											
Task 4:											
Subtotal											
TOTAL											

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

## EXHIBIT C

### East Bay Municipal Utility District (Project Title)

#### CEP COMPLIANCE

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

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

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

**ATTACHMENT 2**  
**SRVRWP Pump Station R3000 Environmental Documentation RFP**  
**Updated Standard**

## **INSURANCE REQUIREMENTS**

Insurance certificates are not required at the time of submission; however, by signing Exhibit A – RFP Response Packet, the Proposer agrees to meet the minimum insurance requirements stated in the RFP. This documentation must be provided to the District, prior to award.

The following are the minimum insurance limits, required by the District, to be held by the GENERAL OR PROFESSIONAL SERVICE PROVIDER performing on this RFP:

### **INDEMNIFICATION AND INSURANCE**

A. Indemnification

GENERAL OR PROFESSIONAL SERVICE PROVIDER expressly agrees to defend, indemnify, and hold harmless the District and its Directors, officers, agents, and employees from and against any and all loss, liability, expense, claims, suits, and damages, including attorneys' fees, arising out of or resulting from GENERAL OR PROFESSIONAL SERVICE PROVIDER's, its associates', employees', subcontractors', or other agents' negligent acts, recklessness, or willful misconduct, in the operation and/or performance under this Agreement.

B. Insurance Requirements

GENERAL OR PROFESSIONAL SERVICE PROVIDER shall take out and maintain during the life of the Agreement all the insurance required in this section, and if requested shall submit certificates for review and approval by the District. The Notice to Proceed shall not be issued, and GENERAL OR PROFESSIONAL SERVICE PROVIDER shall not commence work until such insurance has been approved by the District. The certificates shall be on forms approved by the District. Acceptance of the certificates shall not relieve GENERAL OR PROFESSIONAL SERVICE PROVIDER of any of the insurance requirements, nor decrease the liability of GENERAL OR PROFESSIONAL SERVICE PROVIDER. The District reserves the right to require GENERAL OR PROFESSIONAL SERVICE PROVIDER to provide insurance policies for review by the District.

C. Workers Compensation Insurance



GENERAL OR PROFESSIONAL SERVICE PROVIDER shall take out and maintain during the life of the Agreement Workers Compensation Insurance for all of its employees on the project. In lieu of evidence of Workers Compensation Insurance, the District will accept a Self-Insured Certificate from the State of California. GENERAL OR PROFESSIONAL SERVICE PROVIDER shall require any subcontractor to provide it with evidence of Workers Compensation Insurance.

D. Commercial General Liability Insurance

GENERAL OR PROFESSIONAL SERVICE PROVIDER shall take out and maintain during the life of the Agreement Automobile and General Liability Insurance that provides protection from claims which may arise from operations or performance under this Agreement. If GENERAL OR PROFESSIONAL SERVICE PROVIDER elects to self-insure (self-fund) any liability exposure during the contract period above \$50,000, GENERAL OR PROFESSIONAL SERVICE PROVIDER is required to notify the District immediately. Any request to self-insure must first be approved by the District before the changed terms are accepted. GENERAL OR PROFESSIONAL SERVICE PROVIDER shall require any subcontractor or Professional Service Provider to provide evidence of liability insurance coverages. The District, its Directors, officers, and employees are Additional Insureds in the policy(ies) as to the work being performed under this agreement.

The amounts of insurance shall be not less than the following:

\$2,000,000/Occurrence, Bodily Injury, Property Damage -- Automobile.

\$2,000,000/Occurrence, Bodily Injury, Property Damage -- General Liability.

The following coverages or endorsements are included in the policy(ies):

1. The District, its Directors, officers, and employees are *Additional Insureds* in the policy(ies) as to the work being performed under this agreement.
2. The coverage is *Primary and non-contributory* to any other applicable insurance carried by the District.
3. The policy(ies) covers *contractual liability*.
4. The policy(ies) is written on an *occurrence* basis.
5. The policy(ies) covers the District's Property in Consultant's care, custody, and control.

6. The policy(ies) covers *personal injury* (libel, slander, and wrongful entry and eviction) liability.
7. The policy(ies) covers *products and completed operations*.
8. The policy(ies) covers the use of *owned, non-owned*, and hired automobiles.
9. The policy(ies) will not be canceled nor the above coverages/endorsements reduced without 30 days written notice to East Bay Municipal Utility District at the address above.

E. Professional Liability

GENERAL OR PROFESSIONAL SERVICE PROVIDER shall take out and maintain during the life of the Agreement, professional liability insurance (Errors and Omissions) with a minimum of \$2,000,000/Occurrence of liability coverage. A deductible may be acceptable upon approval of the DISTRICT. The policy shall provide 30 days advance written notice to DISTRICT for cancellation or reduction in coverage. A three year tail is required if coverage on a claims-made basis. The District, its Directors, officers, and employees are Additional Insureds in the policy(ies) as to the work being performed under this agreement.



## CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

**THIS IS TO CERTIFY TO:** East Bay Municipal Utility District (EBMUD)  
Department: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_

**THE FOLLOWING DESCRIBED POLICY HAS BEEN ISSUED TO:**

District Contract Number: \_\_\_\_\_  
Insured: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

**LOCATION AND DESCRIPTION OF PROJECT/AGREEMENT:**

\_\_\_\_\_

**TYPE OF INSURANCE:** Workers' Compensation Insurance as required by California State Law.

**INSURANCE COMPANY:** \_\_\_\_\_

**POLICY NUMBER:** \_\_\_\_\_

**POLICY TERM:** From: \_\_\_\_\_ To: \_\_\_\_\_

**The policy will not be canceled nor the above coverage reduced without 30 days written notice to East Bay Municipal Utility District at the address above.**

**IT IS HEREBY CERTIFIED the above policy provides insurance as required by the agreement between East Bay Municipal Utility District and the Insured.**

Signed: \_\_\_\_\_  
Authorized Signature of Broker, Agent, or Underwriter

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

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

"This certificate or verification of insurance is not an insurance policy and does not amend, extend, or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate or verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions, and conditions of the policies."



# CERTIFICATE OF LIABILITY INSURANCE

**THIS IS TO CERTIFY TO:**

East Bay Municipal Utility District (EBMUD)

Department: \_\_\_\_\_

Street Address: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

**THE FOLLOWING DESCRIBED POLICY HAS BEEN ISSUED TO:**

District Contract Number: \_\_\_\_\_

Insured: \_\_\_\_\_

Address: \_\_\_\_\_

**LOCATION AND DESCRIPTION OF PROJECT/AGREEMENT:****TYPE OF INSURANCE:** Automobile/General Liability Coverage/Endorsements as required by agreement.**LIMITS OF LIABILITY:****(MINIMUM)**

\$1,000,000/Occurrence, Bodily Injury, Property Damage-General Liability

\$1,000,000/Occurrence, Bodily Injury, Property Damage-Auto Liability

**SELF INSURED RETENTION (\$):**

(Auto)

(GL)

(if applicable)

Aggregate Limits (AUTO)

(GL)

(if applicable)

**INSURANCE COMPANY(IES):**

(Auto)

(GL)

**POLICY NUMBER(S):**

(Auto)

(GL)

**POLICY TERM:**

From: (Auto)

(GL)

To: (Auto)

(GL)

**THE FOLLOWING COVERAGES OR ENDORSEMENTS ARE INCLUDED IN THE POLICY(IES):**

1. ☐ The District, its Directors, Officers and Employees are *Additional Insureds* in the policy(ies) as to work being performed under this agreement. ENDORSEMENT NO. \_\_\_\_\_
2. ☐ The coverage is *Primary* to any other applicable insurance carried by the District.
3. ☐ The policy(ies) covers *contractual liability* for the assumption of liability through the indemnity in this agreement.
4. ☐ The policy(ies) is written on an *occurrence* basis.
5. ☐ The policy(ies) covers *Broad Form* property damage liability.
6. ☐ The policy(ies) covers *personal injury* (libel, slander, and trespass) liability.
7. ☐ The policy(ies) covers *explosion, collapse, and underground* hazards.
8. ☐ The policy(ies) covers *products and completed operations*.
9. ☐ The policy(ies) covers the use of *non-owned* automobiles.
10. ☐ The policy(ies) shall cover pollution liability for claims related to the release or the threatened release of pollutants into the environment arising out of or resulting from Consultant's performance under this agreement.
11. ☐ The policy(ies) will not be canceled nor the above coverages/endorsements reduced without 30 days written notice to East Bay Municipal Utility District at the address above.

**IT IS HEREBY CERTIFIED that the above policies provide liability insurance as required by the agreement between the East Bay Municipal Utility District and the insured.**

Signed \_\_\_\_\_

Firm \_\_\_\_\_

Address \_\_\_\_\_

Date \_\_\_\_\_

Phone \_\_\_\_\_

"This certificate or verification of insurance is not an insurance policy and does not amend, extend, or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate or verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions, and conditions of the policies."



## CERTIFICATE OF PROFESSIONAL LIABILITY INSURANCE

**THIS IS TO CERTIFY TO:** East Bay Municipal Utility District (EBMUD)  
Department: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_

**THE FOLLOWING DESCRIBED POLICY HAS BEEN ISSUED TO:**

District Contract Number: \_\_\_\_\_  
Insured: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

**LOCATION AND DESCRIPTION OF PROJECT/AGREEMENT:**

\_\_\_\_\_

**TYPE OF INSURANCE:** Professional Liability/Errors and Omissions (Claims Made Basis)

**MINIMUM LIMITS OF LIABILITY:** \$1,000,000 each claim and in the aggregate.

**INSURANCE COMPANY:** \_\_\_\_\_

**POLICY NUMBER:** \_\_\_\_\_

**POLICY TERM:** From: \_\_\_\_\_ To: \_\_\_\_\_

**The policy will not be canceled nor the above coverage reduced without 30 days written notice to East Bay Municipal Utility District at the address above.**

**IT IS HEREBY CERTIFIED the above policy provides insurance as required by the agreement between East Bay Municipal Utility District and the Insured.**

Signed: \_\_\_\_\_  
Authorized Signature of Broker, Agent, or Underwriter

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

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

"This certificate or verification of insurance is not an insurance policy and does not amend, extend, or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate or verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions, and conditions of the policies."