

August 27, 2008

Subject: Request for Proposals for Automatic Meter Reading Service Pilot Project in  
Blackhawk

Dear Consultant:

The East Bay Municipal Utility District cordially invites firms, or combination of firms, to submit a proposal to for the Automatic Meter Reading Service Pilot Project in Blackhawk. Your proposal should be prepared in accordance with the directions provided in the enclosed Request for Proposals.

Questions concerning this request should be directed to Bill Maggiore, Senior Civil Engineer, at [bmaggior@ebmud.com](mailto:bmaggior@ebmud.com) by September 5, 2008. He can be contacted by phone on or after September 3<sup>rd</sup> (510/ 287-1021).

Sincerely,



William R. Kirkpatrick  
Manager of Water Distribution Planning

WRK:JLM:sb  
sb008\_231.doc

Enclosure



# **REQUEST FOR PROPOSALS**

**August 28, 2008**

**Automatic Meter Reading Services  
in Blackhawk**



# **REQUEST FOR PROPOSALS**

## **ISSUED BY:**

East Bay Municipal Utility District (EBMUD)  
375 Eleventh Street  
Oakland, CA 94607-4240

## **ISSUING OFFICER:**

William R. Kirkpatrick, Manager of Water Distribution Planning  
East Bay Municipal Utility District  
375 Eleventh Street  
Oakland, CA 94607-4240

## **REQUEST FOR PROPOSAL ISSUED:**

August 28, 2008

## **SEALED PROPOSALS DUE:**

4:00 p.m., September 19, 2008

Postmarks will not be accepted.

Five printed copies and one electronic copy of the proposal and all attachments on CD are required.

## **ALL MAILED PROPOSALS SHALL BE ADDRESSED AS FOLLOWS:**

### **EBMUD**

#### **Blackhawk AMR Pilot Project – RFP Submittal**

Jeni McGregor, Associate Civil Engineer  
375 Eleventh Street, MS 701  
Oakland, CA. 94607-4240

The envelope shall also have stated thereon the name and address of the submitting vendor.

## **HAND DELIVERED, COURIER OR PACKAGE DELIVERY SERVICE SHALL BE DELIVERED DIRECTLY TO:**

### **EBMUD**

#### **Blackhawk AMR Pilot Project– RFP Submittal**

Jeni McGregor  
Associate Civil Engineer  
375 Eleventh Street, MS 701  
Oakland, CA. 94607-4240

## **FAXED PROPOSALS WILL NOT BE CONSIDERED.**

## **EMAIL PROPOSALS WILL NOT BE CONSIDERED.**

**ATTENTION! ATTENTION! ATTENTION!**

**MANDATORY PRE-BID MEETING**

**All prospective bidders for this Request for Proposals (RFP) for Automatic Meter Reading Services in Blackhawk are required to participate in a pre-bid meeting. Those not attending this meeting will not be allowed to bid on this RFP.**

**DATE:** Thursday, September 4, 2008

**TIME:** 8:00 a.m. - 3:00 p.m.

**LOCATION:** Large Training Room  
EBMUD's Adeline Maintenance Center  
1100 21st Street  
Oakland, California

**Please RSVP by September 2, 2008 by contacting David Wallenstein, Associate Engineer, via email at [dwallens@ebmud.com](mailto:dwallens@ebmud.com) or at (510) 986-7614 to add your name to the list of attendees. Please indicate the total number of attendees expected. Parking and transportation to sites will be provided at the location above.**

## TABLE OF CONTENTS

Sections	Page
1.0 General Information .....	1
1.1 Introduction.....	1
1.2 Scope of Work .....	1
1.3 Statement of Qualifications – Minimum Requirements .....	2
1.4 Schedule of RFP Events and Project Milestones .....	3
2.0 Overview of EBMUD and Project Area.....	4
2.1 Overview of EBMUD .....	4
2.2 Overview of Project Area .....	4
2.3 Potential Collector Sites .....	5
3.0 Overview of Existing Meter Equipment .....	8
3.1 Meter Types .....	8
3.2 Meter Pits .....	8
3.3 Nicor Connector .....	8
4.0 Overview of Customer Interface .....	10
4.1 Access Screen (by EBMUD) .....	10
4.2 Annual Consumption Screen .....	11
4.3 Monthly Consumption Screen.....	11
4.4 Daily Consumption Screen .....	11
4.5 Hourly Consumption Screen .....	11
4.6 Optional Fifth Screen Minute Consumption .....	12
4.7 Customer Settings.....	12
5.0 Instructions to Vendors .....	14
5.1 Submission of Proposals .....	14
5.2 Delivery of Responses .....	14
5.3 Questions .....	14
5.4 Vendor Exceptions/Clarifications .....	15
5.5 Proposal Format.....	15
5.5.1 Table of Contents .....	15
5.5.2 Executive Summary .....	16
5.5.3 Vendor Information and References.....	16
5.5.4 Project Approach .....	17
5.5.5 Technical Requirements.....	18
6.0 Proposal Evaluation.....	19
6.1 Mandatory Requirements .....	19
6.2 Proposal Evaluation .....	20
7.0 Contract Negotiation Terms and Conditions.....	21

**TABLE OF CONTENTS**  
*(Continued)*

<b>Figures</b>	<b>Page</b>
1     Project Area Map and EBMUD Facilities.....	7
2     EBMUD Standard Meter Installation.....	9
3     Rough Example of One Possible Approach to the Customer Interface .....	13

**Attachments**

- A – Function and Technical Requirements Worksheet Example
- B – Pricing Sheet
- C – Contract Equity Program Forms and Guidelines
- D – Standard Consulting Agreement for Contracts Greater Than \$25,000
- E – Non-negotiable Terms
- F – Certificates of Insurance



## 1.0 General Information

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EBMUD is soliciting proposals for a fixed-network Automatic Meter Reading (AMR) service for approximately 4,000 customer services in the Contra Costa County area east of Danville, California. AMR service includes system design, acquisition and installation of meter interface units (MIU) and all ancillary communications infrastructure, software and delivery of meter reading data and analysis functionality.

The AMR system will provide hourly data, which will be made accessible to customers in graphical format via an Intranet connection (website). The customers will be able to use the data to identify water conservation opportunities such as repairing leaks, reducing irrigation, making plumbing upgrades, or installing other water saving equipment. The website will also be capable of sending customers email and/or postcard notification if they have an apparent leak or exceed a customer-defined daily usage threshold. EBMUD's Water Conservation staff will work with these customers to help identify water conservation strategies and provide training on the use of the system.

This project is partially funded by grants from the United States Bureau of Reclamation and California Department of Water Resources as a demonstration of the use of AMR technology in the field of water conservation.

### 1.1 Introduction

Each proposal submitted in response to this RFP shall be evaluated in accordance with the evaluation criteria set forth in Section 6.0.

Award shall be made to the responsive, responsible vendor whose proposal is determined, in writing, to be the most advantageous for EBMUD, taking into account all the evaluation criteria set forth in this RFP. EBMUD reserves the right to reject any and all proposals submitted in response to this RFP. The vendor will be required to furnish the service as specified herein and as modified by addenda.

### 1.2 Scope of Work

The selected vendor will design an AMR solution (including software and hardware) that will meet all the functional and technical requirements; procure the software and hardware necessary; deliver, implement and configure the system; verify functionality; and maintain operations of the AMR system. These items are described more fully below. All projects and components must meet the required functional and technical requirements in Section 5.0 and Attachment A.

The three major components of the service include:

1. **Design and implementation of the AMR system.** This component includes design and implementation of all hardware and software components to retrieve hourly readings from a combination of approximately 4,000 pulse- and encoded- water meter registers. The vendor shall be responsible for procurement and installation of all

AMR system equipment. EBMUD staff assistance on the MIU installation may be negotiable; however, the vendor should not assume that EBMUD staff is not available. EBMUD will procure and install water meters equipped with a combination of pulse- and encoded-water meter registers and Nicor connectors at all water services proposed for the project, as described in Section 3.0.

2. **Design and implementation of a meter data management system (MDMS).** This MDMS shall include a database of all meter readings collected by the AMR system and shall enable EBMUD to retrieve all or a part of the data over the Internet. The MDMS system shall provide system status reports for a variety of variables, shall allow for the export of meter and consumption information. The MDMS shall include the development of a web-based customer access that will enable customers to access their consumption information in a graphical format. This system shall provide HTML-based summaries of individual customer water consumption that can be transparently embedded in EBMUD's own website. The vendor shall operate and support the MDMS.
3. **Provision of AMR Service and Support.** Operation and maintenance of the AMR and MDMS systems must be provided to EBMUD for a five-year period, including initial training and ongoing operational support for EBMUD's Water Conservation staff on the use of the MDMS. The vendor will maintain ownership of the MIUs and ancillary communications infrastructure.

### **1.3 Statement of Qualifications – Minimum Requirements**

**A vendor must be able to provide the following to meet minimum qualifications and to be considered during the evaluation portion of this RFP.**

- 1) Documented experience with successful implementation and maintenance of AMR systems in at least five (5) locations within the last five years. This requirement applies to the project implementer, not the product manufacturer. The vendor must be able to define and describe project management methodology used in each location, and a description of the services performed for the customers in these locations.
- 2) Documented staff expertise in project management, system support and maintenance. For the project manager who will be assigned to implement the solution for EBMUD, indicate whether the manufacturer, reseller, or integrator will provide the project manager and either list qualifications or provide a resume of the project manager.
- 3) Documented experience in training utility staff in AMR system usage and support of customer self service functionality.
- 4) Successful operation of at least 1,000 MIUs in water systems for the exact type of AMR technology used in the proposed solution.
- 5) The ability to provide hourly consumption information with a resolution of 1.0 cubic feet or less with daily uploads for at least a 10-year battery life.

- 6) The ability to read pulse and encoded registers and connect the MIU to a Nicor AMR Hydroconn Series III connector.
- 7) The ability to provide MIUs with tamper-resistant design and the ability to function in a wet environment without aboveground antennae or any device mounted to the meter box lid.

#### 1.4 Schedule of RFP Events and Project Milestones

The major events within the selection process for determining the AMR vendor are outlined below. An approximate schedule of these events follows:

Event	Schedule
1. Advertise RFP	August 28, 2008
2. Vendors RSVP for bus tour	September 2, 2008
3. Project area bus tour	September 4, 2008
4. Vendors send questions by	September 5, 2008
5. EBMUD provides response to questions by	September 12, 2008
6. Proposals due to EBMUD	September 19, 2008
7. Invitation for interview by EBMUD	September 23, 2008
8. Interviews at EBMUD	September 25, 2008
9. Select and negotiate final agreement with vendor by	October 16, 2008
10. Present to Board of Directors for Approval	October 28, 2008
11. Notice to Proceed	October 31, 2008

Project Milestones	
1. EBMUD provides data file with 4,000 meters	October 31, 2008
2. Vendor submits detailed schedule	November 14, 2008
3. Vendor submits draft implementation plan, including locations of all collectors	November 14, 2008
4. Vendor submits final implementation plan	December 1, 2008
5. Vendor releases beta version of web-based tools	December 15, 2008
6. Interim milestone: MIUs installed on 2,000 meters	December 15, 2008
7. Vendor completes collector installation	December 30, 2008
8. Vendor releases final version of web-based tools	January 7, 2009
9. Interim milestone: 2,000 or more services functional for use by customers	January 16, 2009
10. All MIUs installed	January 27, 2009
11. All services functional for customer use	January 29, 2009

Timely completion is required for water conservation during the current drought. There will be deductions for liquidated damages if the service is not ready for customer use by a date agreed to by EBMUD and the vendor.

## **2.0 Overview of EBMUD and Project Area**

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### **2.1 Overview of EBMUD**

EBMUD supplies water and provides wastewater treatment for parts of Alameda and Contra Costa Counties on the eastern side of San Francisco Bay in Northern California. Approximately 1.3 million people are served by EBMUD's water system in a 325-square-mile area extending from Crockett on the north, southward to San Lorenzo (encompassing the major cities of Oakland and Berkeley), eastward from San Francisco Bay to Walnut Creek, and south through the San Ramon Valley. The wastewater system serves approximately 640,000 people in an 83-square-mile area of Alameda and Contra Costa Counties along San Francisco Bay's east shore, extending from Richmond on the north, southward to San Leandro. There are approximately 2,000 employees at EBMUD.

EBMUD is a publicly owned utility formed under the Municipal Utility District Act passed by the California Legislature in 1921. EBMUD has a seven-member Board of Directors publicly elected from wards within EBMUD's service area. The Board of Directors and management believe that EBMUD has a public responsibility to preserve the region's resources and set industry standards for the way water and wastewater utilities conduct themselves. EBMUD is a customer-oriented and environmentally sensitive public agency, firmly committed to serving people and the environment.

EBMUD's Water Conservation Division, which is sponsoring this project, has 20 full-time staff and normally has a \$4 million annual budget. EBMUD is widely recognized as a leader in the field of water conservation and has been involved in many presentations and publications in this field. EBMUD offers a variety of conservation-oriented programs, including water surveys, free conservation devices, rebates on water-efficient devices and a number of customized programs for residential, commercial and institutional customers. EBMUD announced a drought in May 2008 and has since hired 10 additional temporary staff and significantly increased its water conservation and drought response budget.

EBMUD has piloted a number of different AMR systems, including walk-by, drive-by, and fixed systems. However, EBMUD currently reads most meters visually and has no specific plans to convert to a system-wide AMR system.

### **2.2 Overview of Project Area**

The project is located in the eastern part of EBMUD's service area in and around an area known as Blackhawk. The project area is located in Contra Costa County, California, in an area north and east of the Town of Danville, and includes small portions of Danville (see Figure 1). The southern border of the project area is just south of Camino Tassajara. The western border is just west of Blackhawk Road. The northern part of the project area is bounded by EBMUD's service area. The eastern part of the project area is bounded by Alamo Creek and EBMUD's service area.

Residential customers in this area tend to have large homes and large landscapes. Many residences have an average annual consumption of over 1,000 gallons per day. The area also has many businesses, schools, and other facilities in the area that may benefit from new water-savings devices. The area also has two large golf courses and other large irrigated areas.

Within the approximate project area there are approximately 6,000 EBMUD metered services. EBMUD will select 4,000 of these meters to be included in this project based on their consumer type, consumption history, type and size of meter and ease of installing equipment.

## **2.3 Potential Collector Sites**

### **EBMUD-Owned Facilities**

Several EBMUD-owned sites are available for placement of collectors at no charge to the vendor, subject to the vendor providing all required planning, design, permitting and regulatory analysis, and subject to the vendor accepting various conditions such as: reasonable limits on collector height, visual mitigations as needed, maintenance access limits (normal working hours, by appointment only), limitations of EBMUD liability, removal by vendor at conclusion of contract, etc.

The project area includes EBMUD facilities shown in blue in Figure 1. The location and approximate elevation of the facilities available for collector siting are as follows.

- Acorn Pumping Plant, elevation 877 feet above mean sea level (AMSL), South Eagle Nest Drive at Blackhawk Drive.
- Blackhawk Pumping Plant, elevation 732 feet AMSL, east of Blackhawk Club Drive (at back of parking lot).
- Blackhawk East Pumping Plant, elevation 781 feet AMSL, Blackhawk Meadow Drive at Silver Meadow Court, near 3374 Blackhawk Meadow Drive.
- Blackhawk Reservoir, elevation 1,050 feet AMSL, end of Wild Oak Lane, nearest address 83 Wild Oak Lane.
- Acorn Reservoir, elevation 1,200 feet AMSL, 1,000 feet north of Eagle Ridge Drive, closet address 27 Eagle Ridge Lane.
- Scenic East Reservoir, elevation 951 feet AMSL, 1,000 feet west of Maplewood Drive, closest address 27 Maplewood Drive (this reservoir is on the western edge of the project area).
- Scenic East Pumping Plant, elevation 660 feet AMSL, northeast intersection of Silver Oak Lane and Blackhawk Road behind the Fire Station on Silver Oak Lane.

## **Other Potential Facilities**

The owners or representatives of the following facilities have indicated that they may be contacted by the vendor to discuss the installation of data collectors on their facilities, and have agreed to have their contact information published in the RFP. EBMUD does not guarantee that these owners or representatives will allow vendors to use their facilities. The vendor will be responsible for all negotiations and permits associated with using these facilities to site the collectors. EBMUD is providing this list as a convenience for AMR vendors to consider as potential locations for data collectors.

- Blackhawk Country Club manages the two golf courses and clubhouses, and has several maintenance buildings. You may contact Barrett Eiselman, General Manager at (925) 736-6503, [beiselman@blackhawkcc.org](mailto:beiselman@blackhawkcc.org) or Kevin Dunne, Club Manager at (925) 736-6519, [kdunne@blackhawkcc.org](mailto:kdunne@blackhawkcc.org).
- Blackhawk Homeowners Association (HOA) owns facilities at 5000 and 5500 Blackhawk Drive, 3400 Silver Maple Drive, and Eagle Nest Park. Contact information is: (925) 736-6440, Mike Cousineau, Community Services Director ([MikeC@blackhawk-hoa.com](mailto:MikeC@blackhawk-hoa.com)); Dave Rendon, Lieutenant of Security; or Mark Goldberg, Community Manager.
- Diablo Vista Middle School is located at 4100 Camino Tassajara and Tassajara Hills Elementary School is located at 4675 Camino Tassajara. Contact: Thomas Jamison, Director of Maintenance, Operations, Transportation, and Child Nutrition, Community Services and Emergency Management at (925) 824-1878, [tjamiso@srvusd.net](mailto:tjamiso@srvusd.net).
- Hidden Oaks HOA has a guard station at 2501 Blackhawk Road. Contact information is Carol Mitchell at (925) 625-1518, extension 41 or [Carol@hoaqualitymgmt.com](mailto:Carol@hoaqualitymgmt.com).
- Don Williams owns a number of facilities in the Blackhawk area, including the Blackhawk Auto Museum located at 3700 Blackhawk Plaza Circle and some used by the Blackhawk Country Club. Mr. Williams and his assistant, Craig Cesco, can be reached at (925) 824-1878, [Don@blackhawkcollection.com](mailto:Don@blackhawkcollection.com).



FIGURE 1



PROJECT AREA MAP AND EBMUD FACILITIES

## 3.0 Overview of Existing Meter Equipment

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### 3.1 Meter Types

EBMUD is responsible for procuring and installing meters and registers as needed. EBMUD has selected water services in the Blackhawk area for this project based on their consumption history, size, type and particular location. In general, EBMUD will avoid replacing meters with difficult meter installation conditions, including reinforced concrete meter pits that cannot be replaced or modified unless alternate agreements are made with the selected vendor. Most meters will have new pulse-type registers manufactured by Amco-Elster and Badger. Some meters may also be Pro-read encoded-type registers manufactured by Neptune. All meters 5/8-inch through 2-inch will be positive-displacement type. A few compound- and turbine-type meters will be newly installed as part of this project. Some older meters may include new registers fitted to older meter bodies.

### 3.2 Meter Pits

Meter box installations by EBMUD will, in general, be according to EBMUD's standard meter box installation shown in Figure 2. Most of the meter boxes will have the minimum dimensions of 18 inches (length) by 11 inches (width) by 12 inches (height). The MIU must fit within the dimensions of EBMUD's standard meter box (including meter and register), as no protruding antennae and devices imbedded in the meter pit lid will be allowed.

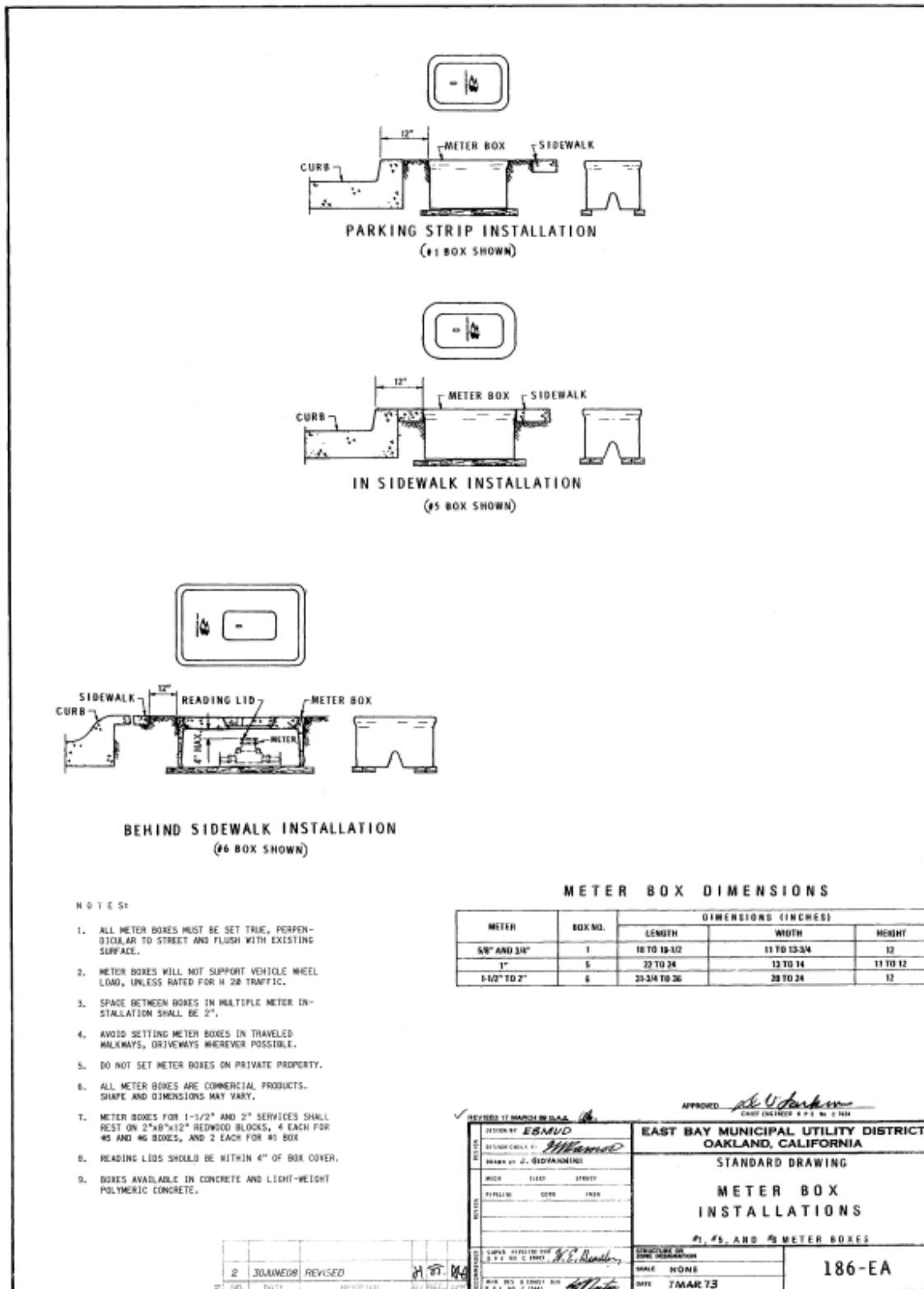
### 3.3 Nicor Connector

All meters selected for this project will have a Nicor Hydroconn AMR Series III in-line male connector with socket metal contacts and Hydroconn AMR Series III End Caps. The register cable will be Nicor's three (3) conductor cable and measure 18 inches long from the surface of the register to the end of the connector. When the meter side connector is viewed end-on with the molded arrow at the 12 o'clock position, the contacts occupy the 2, 6 and 10 o'clock positions. EBMUD will provide female Nicor connectors to the selected vendor for this project.

<b>Clock Position</b>	<b>Function</b>
2	Power/Clock
6	Ground/Common/Return
10	Encoder data



FIGURE 2



EBMUD STANDARD METER INSTALLATION

## 4.0 Overview of Customer Interface

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The customer website should be both useful and easy to use for EBMUD customers. The web content must be made available such that it can be seamlessly embedded within EBMUD's website and reachable by a hyperlink within the website.

Customers selected for inclusion in this project will be notified by EBMUD that they may access their on line information using their username, which is their account number. The customer will be identified exclusively by customer account number. The interface must not display, and the database must not contain, any identifying customer information such as name, address or telephone number.

The website shall provide graphs and tabular display of water usage with minimal text input required. At a minimum, customers must be able to view annual, monthly, daily, and hourly water consumption. The website must provide configurable settings to allow customers to define daily water usage alarms, select default views (e.g., monthly, daily, or hourly), configure email notifications, add notes, and select display units (billing units, cubic feet, or gallons) for the different views of the data. The website must also include instructions on its use.

Note that many of the desired reports will show consumption data prior to the AMR project. To facilitate this function, EBMUD will provide historic monthly consumption data for the 4,000 services. EBMUD monthly data lags by about 4 months so updates to this data will be provided after AMR installation.

Included in this description are some mockups of one possible approach to providing the content that EBMUD will require (see Figure 3). **EBMUD will consider alternate layouts of the website, but these must contain the minimum information contained here via a simple click-driven interface.** In addition to click-driven navigation, the ideal customer interface will provide a means to access any view via URL arguments.

### 4.1 Access Screen (by EBMUD)

Customers clicking on a Blackhawk AMR Project link (developed by EBMUD) on EBMUD's homepage will first see a screen with an image of the project concept (to be defined), a brief textual explanation of the project and an input area for service number. Since only a small percentage of EBMUD's customers will be part of this project, there will be an alternative screen (to be defined) for customers whose service number does not match one on the list. At this time, EBMUD does not plan to require a password for customers to access their accounts.

## **4.2 Annual Consumption Screen**

This screen will present a 10-year history of water usage for a single service, with the most recent year being the current year (see Figure 3). Years for which complete data are not available (for example, the service at the address was for a previous customer during all or part of a year) will be shown as zero. This graph will have water usage either in billing units, cubic feet, or gallons (selected in Settings Screen ) on the vertical axis and the 10 years on the X-axis. In addition to a graphical presentation, tabular data will be available for all consumption data. If a possible leak has been identified either by continuous usage or a signal from the MIU, this screen will indicate that a possible leak has been identified. The warning can be reset in the Customer Settings screen.

## **4.3 Monthly Consumption Screen**

After choosing to view monthly consumption, the customer will be presented with their 12 months of consumption within that year. Figure 3 shows a mockup of one possible way to display this information. The monthly data shown will be either a sum total of all consumption recorded by the AMR during the month or historical monthly data provided by EBMUD.

## **4.4 Daily Consumption Screen**

After choosing to view daily consumption, the customer will be presented with the 28 to 31 days of consumption within that month, if available. If the customer selects a period before the AMR system was installed, they will receive a message saying that no daily or hourly data is available. If the customer has defined a daily water consumption alarm, a bar at that level will appear on the chart. The daily data shown will be a total of all consumption recorded by the AMR during the 24-hour period. A one-day lag is acceptable in data presentment.

## **4.5 Hourly Consumption Screen**

After choosing to view hourly consumption, the customer will be presented with 24 hours of consumption within that day. The hourly data shown will be a total of all consumption recorded by the AMR during the 60-minute period. If a smaller period is available, instructions on this page will explain that minute data is available for each day by clicking on the hour to reveal minute data. If 24 continuous hours all indicate non-zero consumption, a message will appear on the screen indicating the presence of a possible leak.

## **4.6 Optional Fifth Screen Minute Consumption**

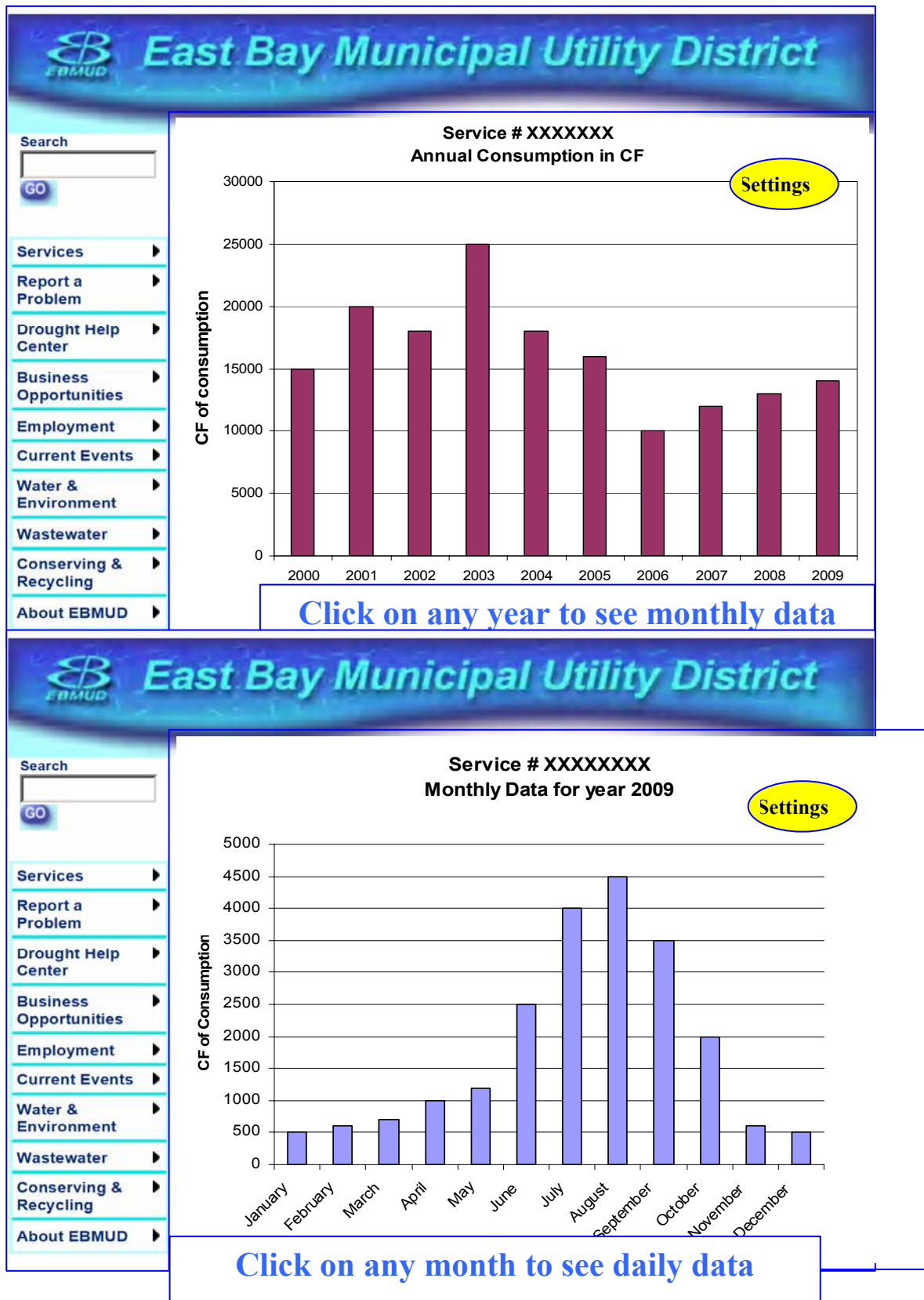
If minute data is available for a customer, the website should provide a display of that data similar to the display for hourly consumption.

## **4.7 Customer Settings**

Settings must be accessible from any screen and will allow the customer to perform the following functions:

1. Provide and update an email address that the system will use to notify them of leaks, daily budget exceedances and other customer notification information. This function should allow up to three email addresses.
2. Provide a daily budget limit that they can set that will send them an email message (with selectable frequency, e.g., daily) if they exceed that amount of water in a single day. This limit should default to gallons per day, but may be in other units as well. Please note that this limit level will appear as a bar on the chart on the daily consumption screen.
3. Provide an override option for leak notification that allows for continuous use at a certain level without generation of leak notification. Also provide a leak-reset option to indicate that the customer has corrected a leak identified and does not need to be notified unless a new leak occurs.

FIGURE 3



Rough Example Of One Possible Approach To The Customer Interface

## 5.0 Instructions to Vendors

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When responding to this RFP, all vendors shall adhere to the guidelines defined below. Any and all proposals that do not follow the prescribed format are subject to immediate rejection.

### 5.1 Submission of Proposals

All proposals submitted in response to this RFP shall become the property of EBMUD and a matter of public record. The vendor must identify all copyrighted material, trade secrets or other proprietary information that they claim are exempt from disclosure under the Public Records Act (California Code Sections 6250, et seq.) All information that is to be kept confidential and not be subject to public scrutiny, must be stated as such, and be contained within an attachment named "Confidential Vendor Information." In the event such an exemption is claimed, the vendor shall state in the proposal that they will defend any action taken against EBMUD to release such exempt material.

### 5.2 Delivery of Responses

See page ii Request for Proposals for instructions.

### 5.3 Questions

So as to control the proposal process and ensure its fairness, EBMUD requests that vendors contact EBMUD for information via email or ask during open forum at the job walk. **All questions must be sent via email to Bill Maggiore, Senior Civil Engineer, at [bmaggior@ebmud.com](mailto:bmaggior@ebmud.com). He can be contacted by telephone at (510) 287-1021 on or after September 3, 2008. To ensure response, questions must be received no later than 12:00 p.m. on September 5, 2008.** EBMUD will acknowledge receipt of questions via email by the end of the next business day.

If EBMUD's requirements are materially altered, an amendment to the RFP will be issued and posted on [www.ebmud.com](http://www.ebmud.com).

Questions regarding minority business enterprises should be directed to EBMUD's Contract Equity Office at (510) 287-0114.

## **5.4 Vendor Exceptions/Clarifications**

Any vendor exceptions and/or clarifications to the mandatory requirements within this RFP must be explicitly stated within an attachment named “Vendor Exceptions and Clarifications.”

## **5.5 Proposal Format**

To expedite EBMUD’s review and evaluation process, the vendor must follow the outline defined below when developing the proposal. Provide concise and informative answers to all questions. All proposals must contain sufficient information relative to how the vendor proposes to accomplish the tasks described in this section. Responses such as “Compliant,” “Non-compliant,” etc., are deemed insufficient and unacceptable.

Proposals must be presented to EBMUD as a bound document separated by tabs that identify the major sections of the proposal.

All responses shall reference the questions to which they pertain. References to external documents are not acceptable.

To aid in the evaluation process, all proposals are to be organized in the following sequence. The total length of the proposal, excluding Attachments A, B and Contract Equity Program (CEP) forms, shall not exceed 20 pages in length.

- Table of Contents
- Executive Summary (2-page summary)
- Vendor Information
- Description of Project Approach
- Compliance with Technical Requirements (use format specified in Attachment A)
- Vendor Exceptions and Clarifications
- Pricing Sheet (use Attachment B)
- Completed CEP Forms

Proposals that do not follow the specified format may be considered non-responsive and may be eliminated from further consideration.

### **5.5.1 Table of Contents**

Vendor will provide a Table of Contents with sufficient detail to allow EBMUD to quickly locate information within the proposal.

### 5.5.2 Executive Summary

Vendor will provide *a summary of the proposal no more than 2 pages long*, which outlines the highlights of the proposal, unique skills and experience of the vendor and the advantages to EBMUD for selection of the proposal.

### 5.5.3 Vendor Information and References

EBMUD is interested in minimizing the risks associated with this type of project by selecting a vendor who can demonstrate a successful track record for AMR systems implementation, operations and ongoing support. Successful implementations are implemented on time, at or under budget, and meeting all functional and technical requirements. This must be demonstrated through successful projects and client references.

Please answer the following questions. If your proposal requires a partnership with another vendor or with the manufacturer, please answer the following questions for each entity.

1. Provide a brief history of your company, its growth, current solvency, products offered, services offered, manufacturer certifications, strategic focus as well as any pending or planned acquisitions.
2. Describe your company's growth over the past 3 years. Detail any ownership changes over the past 10 years.
3. State the nature of any pending litigation, liens or claims involving your organization. Has your company filed for Chapter 7 or 11 bankruptcies in the last 10 years?
4. List and describe the 5 most recent AMR implementation projects, successful and failed, over the last 5 years utilizing the type of fixed network technology proposed for this project:
  - (a) Name of utility, location, type and number of services metered under project.
  - (b) Implementation project duration.
  - (c) Product installed.
  - (d) Total vendor-provided staff, and total client-provided staff.
  - (e) Types of major problems resolved and specific examples of returns on investment experienced by client.
  - (f) For at least three of the projects, provide reference information (name, telephone number, etc.) so that EBMUD may contact the reference.
5. What makes your company uniquely qualified to provide the system requested?
6. How many employees does your company employ that are dedicated to supporting



your solution?

7. Where is your company headquartered and do you have a physical presence and employees in the San Francisco Bay Area?
8. Describe your resource availability for system design, field implementation, configuration changes for the meter data management system, report development, and operational support - post implementation. Will the manufacturer perform that or the reseller/integrator?
9. Provide the resumes of the project manager, lead staff person and other staff that will be assigned to this project. What is the number of employees that you have available to work on this AMR solution project?
  - (a) What is the average number of years that these employees have been with your company?
  - (b) What is the average number of years of AMR experience for these employees?
10. What is your ability to remotely monitor, detect and fix problems arising in your proposed solution without EBMUD's intervention?
11. Provide a list of EBMUD employees, if any, who can reasonably be identified as having a financial interest in the Bidder's firm or Bidder's subcontractor(s)' firm(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.

#### **5.5.4 Project Approach**

Describe the overall project approach. Key items to include are:

1. Staffing/Organization chart showing key staff and their responsibilities.
2. Project schedule.
3. Technical approach.

The discussion of technical approach should include the following:

1. A schematic of overall hardware and software application components that make up the complete solution. This should show MIUs, the estimated number of collectors, servers or appliances, software applications that support analysis and customer self-service functions and how they are interconnected (wireless, DSL, T1, LAN, etc.).

2. For each of the six (6) requirement areas in Section 5.5.5, provide an overview of how your proposed solution will address these requirements.
3. A layout of where your collector towers, collectors, repeaters or transmission equipment will be placed and installation details. If alternate or extra sites are necessary, a description of how you will obtain permission to place the collectors/repeaters on those sites.
4. A detailed description of the MIU and installation specifications.
5. A detailed description of the unit designed for the portable field communication with the MIUs, if available.
6. Sample MDMS reports of currently offered systems and a mockup of proposed system, if available.
7. Describe data security strategy, including any design features that preclude tampering with the device or spoofing of communications.
8. Any and all requirements from EBMUD, including power, Internet, telephone or other requirements you need at each collector site and server connection.
9. Any other material not listed above that is needed by EBMUD to properly evaluate your proposal based on the selection criteria listed in Section 6.0.
10. Description of the proposed EBMUD training plan.

#### **5.5.5 Technical Requirements**

The functional and technical requirements are described in Attachment A, which should be used in your proposal to indicate your degree of compliance with each requirement. That attachment classifies requirements in six functional areas:

- A. Meter Interface Units**
- B. Data Collectors**
- C. Meter Data Management System**
- D. Customer Website**
- E. Service Level**
- F. Security**

## 6.0 Proposal Evaluation

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The EBMUD selection committee will evaluate each proposal meeting the qualification requirements set forth in this RFP.

### 6.1 Mandatory Requirements

No Proposal will be further considered unless it meets all of the following criteria.

**Table 6.1. Minimum Qualifications Criteria (Pass/Fail)**

MINIMUM QUALIFICATIONS			
Item #	Criteria Description	Yes (Pass)	No (Fail)
1	Documented experience with successful implementation and maintenance of AMR systems in at least five (5) locations within the last five years. This requirement applies to the project implementer, not the product manufacturer. The vendor must be able to define and describe project management methodology used in each location, and a description of the services performed for the customers in these locations.		
2	Documented staff expertise in project management, system support and maintenance. For the project manager who will be assigned to implement the solution for EBMUD, indicate whether the manufacturer, reseller, or integrator will provide the project manager and either list qualifications or provide a resume of the project manager.		
3	Documented experience in training utility staff in AMR system usage and support of customer self service functionality.		
4	Successful operation of at least 1,000 MIUs in water systems for the exact type of AMR technology used in the proposed solution.		
5	The ability to provide hourly consumption information with a resolution of 1.0 cubic feet or less with daily uploads for at least a 10-year battery life.		
6	The ability to read pulse and encoded registers and connect the MIU to a Nicor AMR Hydroconn Series III connector.		
7	The ability to provide MIUs with tamper-resistant design and the ability to function in a wet environment without aboveground antennae or any device mounted to the meter box lid.		

Additionally, note that you must fill out and submit the CEP documents in Attachment C. Failure to submit the documents will constitute a non-responsive proposal. The content of the CEP submission is not part of the selection process.

## **6.2 Proposal Evaluation**

Providing proposals meet the minimum qualifications described above, they will be evaluated competitively. Based on the proposal evaluation, up to three finalists may be invited for an interview. At the discretion of EBMUD, the interview portion of the bid evaluation may be bypassed. A vendor invited to an interview will be expected to provide a presentation, introduce key team members, and provide an onsite product demonstration. Vendors may be asked to establish a demonstration system for use by EBMUD staff to allow for hands-on review of the system by the EBMUD project team and end users.

## **7.0 Contract Negotiation Terms and Conditions**

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Following evaluation of the RFP and vendor selection, EBMUD expects to negotiate an agreement with the selected vendor. The responses to this RFP and any other requested information and documentation regarding the resolution of open issues may be incorporated into the agreement.

A copy of EBMUD's standard contract for professional services over \$25,000 is included as Attachment D. In your response to this section, please also include any terms and conditions that you would not agree to from this standard contract. Note, however, that EBMUD has several contract provisions that are not negotiable and they are included as Attachment E for your review. Attachment F includes the appropriate requirements for Certificates of Insurance. Taking exception with these provisions will result in your proposal being deemed non-responsive.

Vendors should understand that the conclusion of EBMUD's "selection" process, as detailed in this RFP, is not the end of the "acquisition" process. EBMUD's selection and acquisition of any system will not be final until EBMUD has negotiated an acceptable agreement with the vendor and that agreement has been reviewed and approved by the vendor, EBMUD's legal counsel, Risk Management Section, Senior Management, and Board of Directors.

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***ATTACHMENT A***

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***FUNCTION AND TECHNICAL REQUIREMENTS WORKSHEET EXAMPLE***





**FUNCTIONAL AND TECHNICAL REQUIREMENTS – VENDOR RESPONSE WORKSHEET**  
**VENDOR MUST PROVIDE FOR AREAS A-F LISTED IN SECTION 5.5.5**

<b>A. METER INTERFACE UNITS</b>					
	<b>THE FOLLOWING ARE REQUIRED:</b>	<b>Fully Supported</b>	<b>Partially Supported</b>	<b>Not Supported</b>	<b>Comments</b>
1	Must read meter at least hourly and must be able to report hourly data to MDMS and/or website within 24 hours.				
2	Must not interfere with customers' ability to read the meter dials.				
3	Must provide a minimum 10-year useful battery life with hourly readings.				
4	Must be designed to prevent tampering.				
5	Must be potted to an EBMUD-provided Nicor AMR Hydroconn Series III connector as described in Section 3.0.				
6	Must be capable of reading both pulse-type outputs from Badger RTR and Elster AMCO Digital registers and encoded-type output from the Neptune Pro-Read register. Two separate MIUs may be used for different output types.				
7	Must be capable of reading, storing, and transmitting meter resolution as low as 1.0 cubic feet.				
8	Must not require antennae that need to be mounted outside of the meter pit or integral to the meter box lid as these antennae would be damaged during routine meter reading.				
9	Must fit within the EBMUD standard meter box (smallest dimensions for 5/8 inch meters are length x width x height = 18 inches x 11 inches x 12 inches), allowing space for meters and registers.				
10	Must be completely submersible and be designed for continually wet environments.				
11	Must be identified by a unique serial number.				
	<b>THE FOLLOWING ARE DESIRED:</b>	<b>Fully Supported</b>	<b>Partially Supported</b>	<b>Not Supported</b>	<b>Comments</b>
12	Tamper detection to automatically report tampering with the meter, MIU, and/or meter box.				
13	An automated means within the MIU of detecting and reporting leaks greater than 0.1 cubic foot per hour.				
14	The ability to report meter resolution as low as 0.1 cubic foot from pulse registers.				
15	The ability to report meter resolution as low as 0.01 cubic foot from an encoded register.				
16	Two-way communication or alternative technology to allow a missed reading to be captured, with a memory of 28 days or more of hourly reads.				
17	Remote configuration of MIUs to adjust recording interval.				
18	The ability to define the time at which each meter is read in order to perform accurate system demand calculations and/or the ability to synchronize time on each MIU from the MDMS.				
19	Ability to interface MIU to instrumentation other than water meters, such as remote shutoff valves and irrigation controllers.				
20	The ability to provide a MIU that can accept more than one import, such as connectors from more than one meter or information from a leak detection device.				
21	More than five years of experience with any RoHS-compliant circuit assembly technology involved in MIUs or collectors. RoHS is the Directive on the Restriction of the Use of Certain Hazardous Substances in Electrical and Electronic Equipment.				
22	Secure means to re-flash MIUs to incorporate updated firmware. Please specify if this can be done wirelessly.				
23	The availability of a licensed frequency.				
24	Ability to access data-logged data with a mobile or walk-by system. Please specify if the mobile system can be used to update firmware.				
25	Ability to transmit signal through meter lids made of cast iron, concrete, rebar, and/or wire mesh with concrete. Please specify which meter lid materials are compatible and non-compatible with the MIU.				

**FUNCTIONAL AND TECHNICAL REQUIREMENTS – VENDOR RESPONSE WORKSHEET**  
**VENDOR MUST PROVIDE FOR AREAS A-F LISTED IN SECTION 5.5.5**

<b>B. DATA COLLECTORS</b>					
	<b>THE FOLLOWING ARE REQUIRED:</b>	<b>Fully Supported</b>	<b>Partially Supported</b>	<b>Not Supported</b>	<b>Comments</b>
1	No locations on private residences. Under any circumstance, do not contact residential customers during the RFP or thereafter without the explicit permission of Bill Maggiore (bmaggior@ebmud.com), Senior Civil Engineer.				
2	Arrange for, pay for and obtain any permits, easements, and other approvals necessary for siting locations, including at EBMUD-owned sites. EBMUD sites within the project area are indicated in Section 2.3. A list of potential sites is listed in Section 2.3. Owners of these potential sites have agreed to have their contact information published in the RFP and may be contacted by the vendor.				
3	Ability to upload data to MDMS at least once per day.				
	<b>THE FOLLOWING ARE DESIRED:</b>	<b>Fully Supported</b>	<b>Partially Supported</b>	<b>Not Supported</b>	<b>Comments</b>
4	Located at EBMUD-owned facilities.				
5	Collectors that are small in size or can otherwise be hidden from view.				
6	Collectors that can be mounted in areas with other telecommunications equipment.				
7	Collectors that can be mounted in areas that are secure from vandalism or theft.				
8	Ability to communicate in a two-way fashion with MIUs in order to recover missing data, synchronize clocks, define meter reading time, sampling interval, and update firmware.				
<b>C. METER DATA MANAGEMENT SYSTEM</b>					
	<b>THE FOLLOWING ARE REQUIRED:</b>	<b>Fully Supported</b>	<b>Partially Supported</b>	<b>Not Supported</b>	<b>Comments</b>
1	Database, reporting and analysis applications may be hosted by vendor. Alternatively, it is acceptable if the database and applications are physically located at EBMUD provided that vendor supplies all hardware and software licenses and administers the system.				
2	Must provide sufficient storage for at least 5 years of collected hourly data and 10 years of historical monthly data for each of the 4,000 services included in the project.				
3	The ability to create reports on the following topics. These reports should include the total number of occurrences and list the relevant accounts for a user-specified time frame.				
3a	Missing meter reads and days those reads have been missing.				
3b	Zero consumption meter reads lasting longer than a specific period defined by EBMUD.				
3c	Excess consumption per account as defined by EBMUD.				
3d	System status reports including any problems with collectors, server, website or other ancillary equipment.				
3e	Installation records including new meter installations, meter changeouts, MIU changeouts, and MIU or other equipment modifications.				
3f	A list of customers that appear to have a leak or exceed a customer-defined daily water budget. If applicable, the leak report will also include user defined leak threshold.				
4	Must provide web interface to all customer report and monitoring functionality in such a way that EBMUD can embed that interface in www.ebmud.com and create the appearance to customers that all content is being served from www.ebmud.com.				
5	Must provide above functionality without requiring any private customer data such as name, address, or telephone number to be stored within the system.				
6	Open standard data access options such as web services or ad-hoc SQL interface to allow EBMUD staff to access the database.				

**FUNCTIONAL AND TECHNICAL REQUIREMENTS – VENDOR RESPONSE WORKSHEET**  
**VENDOR MUST PROVIDE FOR AREAS A-F LISTED IN SECTION 5.5.5**

	<b>THE FOLLOWING ARE DESIRED:</b>	<b>Fully Supported</b>	<b>Partially Supported</b>	<b>Not Supported</b>	<b>Comments</b>
7	The ability to provide reports on the following:				
7a	A list of customers that have specific consumption patterns defined by EBMUD, such as using more than 500 gallons per day, six days per week that may indicate excessive irrigation.				
7b	The ability to run queries on change in water-use patterns as a result of average ambient temperature or evapotranspiration coefficients.				
7c	Tamper reports.				
7d	Recovered meter reads (two-way systems only).				
8	The ability to sum all hourly consumption from a designated meter list in order to provide a typical system hourly demand.				
9	The ability to define the time at which each meter is read in order to perform accurate system demand calculations. This is also discussed under MIU desirable features.				
<b>D. CUSTOMER WEBSITE</b>					
	<b>THE FOLLOWING ARE REQUIRED:</b>	<b>Fully Supported</b>	<b>Partially Supported</b>	<b>Not Supported</b>	<b>Comments</b>
1	This system will provide HTML based summaries of individual customer water consumption that can be transparently embedded in EBMUD's own website.				
2	The minimum requirements discussed in Section 4.0.				
3	The ability for EBMUD to display periodic water conservation messages on user screens.				
	<b>THE FOLLOWING ARE DESIRED:</b>	<b>Fully Supported</b>	<b>Partially Supported</b>	<b>Not Supported</b>	<b>Comments</b>
4	The ability to provide reports on customers' access frequency.				
5	The future capability to add financial information to website based on retail value water used since last meter bill date. EBMUD uses a tiered rate system.				
6	The ability to overlay previous years' consumption patterns onto the charts displaying consumption.				
7	The ability to overlay temperature or evapotranspiration coefficients onto daily water consumption summaries.				
8	The ability for EBMUD to modify the website and add additional features and/or graphics.				
<b>E. SERVICE LEVEL</b>					
	<b>THE FOLLOWING ARE REQUIRED:</b>	<b>Fully Supported</b>	<b>Partially Supported</b>	<b>Not Supported</b>	<b>Comments</b>
1	Customer report functions must be accessible at all times, except for 30 minutes per day between 1:00 a.m. and 4:00 a.m. during which system maintenance activities can be performed.				
2	SQL and other data interfaces accessible to EBMUD staff must be accessible at all times, except for 30 minutes per day between 1:00 a.m. and 4:00 a.m. during which system maintenance activities can be performed.				
3	Respond and take remedial action within 4 hours to correct serious failure affecting the system during business hours (Monday-Friday, 7:00 a.m. to 5:00 p.m.). For this purpose, "serious failure" means any failure that prevents customers or EBMUD staff from accessing the system or any failure that results in missing or inaccurate data for multiple customers.				
4	Respond and take remedial action the following business day for all other failures.				

**FUNCTIONAL AND TECHNICAL REQUIREMENTS – VENDOR RESPONSE WORKSHEET**  
**VENDOR MUST PROVIDE FOR AREAS A-F LISTED IN SECTION 5.5.5**

F. SECURITY					
	THE FOLLOWING ARE REQUIRED:	Fully Supported	Partially Supported	Not Supported	Comments
1	Use encryption for communications from collector to MIU				
2	Provide appropriate security measures for all other communication links				
3	Provide appropriate security mechanisms to prevent unauthorized access to database and reports				

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***ATTACHMENT B***  
***PRICING SHEET***



**ATTACHMENT B****PRICING SHEET**

Provide a pricing schedule for all hardware, software, installation, configuration, operation and support fees, and other expenses included as part of this proposal.

Proposals must include an itemized listing of all costs involved in providing complete implementation and five years of operational services for AMR solution described in the Scope of Work. Costs may include, but are not limited to, professional services, software licenses, hardware, reports, manuals, travel and training costs, and any and all incidental costs required to complete the project. Also, please list as separate line items the annual maintenance costs for the software you are proposing. Vague wording may result in disqualification (i.e., “Excludes travel and training,” or “Travel and training to be determined,” etc.). Precise wording is required (i.e., “Training and training expenses not to exceed \$5,000,” etc.).

Vendors must detail any and all proposed services that are options or additional components that are not part of the base service proposed.

<b>Description</b>	<b>Comments</b>	<b>Itemized Cost</b>	<b>Recurrence</b>	<b>Total Cost</b>
Design of AMR and MDMS			<b>1</b>	
Installation and testing collector and/or repeater or gateway hardware				
Installation and Testing of MIUs			<b>4,000</b>	
Configuration and Programming of MDMS			<b>1</b>	
Development of customer access website			<b>1</b>	
Training for EBMUD’s Water Conservation staff in MDMS use			<b>1</b>	
Annual cost for providing and maintaining AMR and MDMS services			<b>5</b>	
Other:				
<b>GRAND TOTAL:</b>				





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***ATTACHMENT C***  
***CEP FORMS AND GUIDELINES***





EAST BAY MUNICIPAL UTILITY DISTRICT

# CONTRACT EQUITY PROGRAM AND EQUAL EMPLOYMENT OPPORTUNITY GUIDELINES

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JANUARY 2007



# TABLE OF CONTENTS

<b>I. CONTRACT EQUITY PROGRAM</b>	<b>1</b>
A. Good Faith Outreach Efforts	2
B. Exemptions From Outreach Requirements	3
C. Informational Meetings	5
D. Documentation	5
<b>II. EQUAL EMPLOYMENT OPPORTUNITY</b>	<b>6</b>
A. Employment Data & Certification (Form P-025)	6
B. Good Faith Outreach Efforts Towards Equal Employment Opportunity	7
C. Contractors' EEO Responsibilities Arising From The Performance Of The District Contract	8
D. Monitoring Compliance	8
<b>III. CONTRACT COMPLIANCE</b>	<b>9</b>
A. Records	9
B. Subcontractor Substitution Or Replacement	10
<b>IV. CONSEQUENCES OF NONCOMPLIANCE</b>	<b>12</b>
A. Enforcement	12
B. Contractor's Noncompliance	12
C. Subcontractor's Noncompliance	13
<b>V. SUMMARY OF FORMS</b>	<b>14</b>
<b>VI. APPENDIX</b>	<b>15</b>
Policy Statements	15
Agencies With Business Directories	16
Glossary Of Terms	17



# I. CONTRACT EQUITY PROGRAM

The following Contract Equity Program Guidelines were established to enhance equal opportunities for business owners of all races, ethnicities and genders who are interested in doing business with the District pursuant to Policy 17 approved by the Board of Directors on June 9, 1998. Policy 17 was superseded by Policy 1.03 – Contract Equity Program and Policy 1.04 – Contractor’s Compliance with Equal Employment Opportunity, following the passage of Proposition 209. Further, the District provides assistance to all prospective bidders/proposers in obtaining subcontractor participation by all availability groups, including identification of possible business enterprises.

The Contract Equity Program requires bidders/proposers to conduct outreach to all potential subcontractors to ensure that opportunities to participate in District contracts are publicized as widely as possible. This outreach is intended to broaden the pool of competitive bidders, lower prices to the District, and help achieve diversity among District contractors<sup>1</sup> and subcontractors. The District’s expectation is that with bidders’/proposers’ Good Faith Outreach Efforts to subcontractors of all races and both genders, the composition of District contractors and subcontractors will reflect the broad diversity present in the marketplace, consistent with the Contracting Objectives of the Contract Equity Program.

Additionally, contractors located in counties, such as Alameda, Contra Costa, San Joaquin, Calaveras, Amador and other counties that are directly impacted by District contracts and/or operations, should be targeted in outreach efforts.

**A potential contractor’s noncompliance with these guidelines may deem a bid or proposal nonresponsive, and therefore, ineligible for contract award.**

The requirement of the District’s Contract Equity Program is that all bidders/proposers **must document** Good Faith Outreach Efforts in the ten areas set forth in Section A below. Section B provides an exemption from this requirement for bidders/proposers who meet the District’s Contracting Objectives or obtain a waiver from the District’s Contract Equity Administrator.

**Materiality:** The documentation and certification required by the District are material, will govern the potential contractor and its subcontractors’ performance and will be made part of the bid/proposal and the resulting contract with the District.

**Nondiscrimination:** There shall be no discrimination or harassment or retaliation against any person, or group of persons, on account of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (genetic characteristics or cancer), age, marital status, or sexual orientation within the meaning of California Government Code Section 12940 in the performance of this contract.

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<sup>1</sup> A company, firm, joint venture or individual who enters into an agreement with the District to provide services, i.e., construction, professional services and general services, and delivery of materials, supplies, and equipment. A contractor may be a construction contractor, a consultant, a vendor, a supplier, or a trucker.

6. ***provided*** interested business enterprises with information about the proposal, plans, specifications, and requirements for the selected subcontracting or material supply work;
7. ***requested*** assistance from community organizations or contractor groups; local, state, or federal business assistance offices, or other organizations that provide assistance in the recruitment and placement of business enterprises, if any is available;
8. ***negotiated*** in good faith with the business enterprises in all availability groups, and did not unjustifiably reject as unsatisfactory bids/proposals prepared by any such business enterprises, as determined by the District;
9. ***advised and/or made*** efforts, where applicable, to assist interested business enterprises in all availability groups in obtaining bonds, lines of credit, or insurance required by the District or potential contractor; and
10. ***implemented*** efforts that the District could reasonably expect to obtain business enterprise participation reflective of the broad diversity of contractors in the marketplace.

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## B. EXEMPTIONS FROM OUTREACH REQUIREMENTS

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### 1. CONTRACTING OBJECTIVES

The District has Contracting Objectives<sup>4</sup> based on the availability of all firms located in the District's geographic market areas that are interested in and able to do business with the District. Contracting Objectives apply to all contracts that are determined to have subcontracting opportunities, including material or supply opportunities, and to all contractors, regardless of their gender or ethnicity. The CE Program groups all businesses into three (business owner) availability groups<sup>5</sup> – White Men, White Women, and Ethnic Minority. Publicly held corporations managed and controlled by 51% of one of the three availability groups may count their participation towards meeting the contracting objective for that group.

Potential contractors who already meet the Contracting Objectives for all three availability groups, as described in the chart below, are exempt from the Good Faith Outreach Efforts requirements set forth in Section A.

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<sup>4</sup> The Contracting Objectives represent percentages of the total value of a contract. The dollar value of the work performed by the contractor and his/her subcontractors is included in calculating the amount of participation by each availability group and determining if the Contracting Objectives are met. Contracting Objectives are based on the results of a Disparity Study conducted by the District which verified the number of businesses located within the District's geographic market area available to perform prime and subcontract work in all contracting categories.

<sup>5</sup> For example, when subcontracting opportunities are available, a \$200,000 construction contract would have 25% (\$50,000) or more of the work performed by white men-owned businesses, 9% (\$18,000) or more by white women-owned businesses, and 25% (\$50,000) by ethnic minority-owned businesses.



The contractor shall not establish or permit any such practice(s) of discrimination, harassment or retaliation with reference to the contract or any part thereof. The contractor must post applicable EEO policies to this effect in their workplaces where the District contract is being performed.

**Severability:** Should any part of the Contract Equity (CE) Program be declared to be unconstitutional, invalid, or beyond the authority of the District to enter into or carry out, by a final decision of a court or tribunal of competent jurisdiction, such decision shall not affect the validity of the remainder of the Program, which shall continue in full force and effect.

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## A. GOOD FAITH OUTREACH EFFORTS

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All potential contractors must implement all ten of the Good Faith Outreach Efforts listed below which are based on California Public Contract Code Section 2000<sup>2</sup>, subject to the provisions of Section B.

The apparent low bidder/recommended proposer shall submit Form P-041 documenting such Good Faith Outreach Efforts, as applicable, within **48 hours** of bid opening or in accordance with submittal guidelines in the request for proposal, bid document, or Instruction to Bidders.

To demonstrate Good Faith Outreach Efforts in each of the ten areas, the potential contractor should have:

1. **attended** any pre-solicitation, pre-bid or pre-proposal meetings scheduled by the District to inform all bidders/proposers of the Contract Equity Program requirements, or **signed and submitted** the Contract Equity Guidelines Certification, Form P-042, with the bid or proposal documents, certifying that the bidder is informed as to the Program requirements;
2. **identified and selected** specific subcontracting areas of the contract to be performed by enterprises in all availability groups;
3. **advertised** not less than 10 calendar days before the date the bids/proposals are due, in one or more daily or weekly newspapers, minority, women or other association publications, trade-oriented journals, or other media, specified by the District, for all business enterprises that may be interested in participating in the contract;
4. **provided** written notice of interest in bidding/proposing on the contract to a reasonable number of enterprises in all availability groups not less than 10 calendar days before the date the bids/proposals are due. The District's business directory, which includes white men-, white women-, and ethnic minority-owned firms, is available free of charge<sup>3</sup>. A list of agencies that also provide business directories can be found in the appendix of these guidelines;
5. **followed up** initial solicitations of interest by contacting the business enterprises to determine with certainty whether the enterprises are interested in performing specific items of the project;

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<sup>2</sup>The District will apply Section 2000 to include ALL business enterprises (not limited to minority- and women-owned business enterprises); and the term "local agency" in that section has been changed to "District".

<sup>3</sup>The names of the firms listed in these directories are offered as a service. EBMUD has no independent knowledge regarding the composition of the firm's ownership, or the quality of the work performed by any listed entity.

CONTRACTING OBJECTIVES			
AVAILABILITY GROUP	CONTRACTING CATEGORIES		
	Construction	Professional or General Services	Materials & Supplies
White Men	25%	25%	25%
White Women	9%	6%	2%
Ethnic Minorities (Men and Women)	25%	25%	25%

Contract participation includes all written agreements with business enterprises for any goods and services required for the completion of the project. This includes participation as a:

- Contractor
- Joint Venture Partner
- Subcontractor
- Vendor/Dealer of materials/supplies incorporated or expended in the work
- Supplier/Broker of other services necessary to fulfill the requirements of the contract, such as shipping, transportation, testing, equipment rental, insurance services, etc.

All business enterprises must perform a commercially useful function, i.e., must be responsible for the execution of a distinct element of work and must carry out their responsibility by actually performing, managing and/or supervising the work.

The dollar value of the following is included for determining the amount of participation by each availability group for the Contracting Objectives:

- the work to be performed by the contractor,
- the work to be performed by each member of a joint venture,
- the work to be performed by subcontractors at any tier
- material or supplies purchased from a manufacturer or dealer of such material or supplies, if not previously counted by contractor, joint venture, or subcontractor in their dollar value,
- reasonable fees and commissions for providing bona fide services to procure and/or deliver essential personnel, facilities, equipment, materials, or supplies required for performance of the contract,
- reasonable fees and commissions for providing bonds or insurance specifically required for the performance of the contract, and
- the dollar value of trucking is based on the following:
  - the amount to be paid to a trucker who performs the trucking with his/her own trucks, tractors, and employees,
  - the amount to be paid to trucking brokers provided the broker has submitted to the District information identifying the availability groups of all truckers to be used on the project, or
  - twenty percent (20%) of the amount to be paid to a trucking broker who has not provided such information.

## **2. NO SUBCONTRACTING OPPORTUNITIES**

Contracts which have no subcontracting, supplying, or trucking opportunities are exempt from the Good Faith Outreach Efforts requirements.

## **3. WAIVER**

Under limited circumstances, at the discretion of the Contract Equity Administrator, and upon written request by the bidder/proposer, a waiver of the Contract Equity Program's Good Faith Outreach Efforts requirements may be granted.

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## **C. INFORMATIONAL MEETINGS**

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The District may hold pre-solicitation, pre-bid, and pre-proposal meetings to explain the technical specifications and the Contract Equity and Equal Employment Opportunity Guidelines for an individual project. All prospective bidders/proposers/subcontractors are strongly advised to attend such pre-meetings. The time and place of the meeting, if any, will be announced in the front section of the bid/proposal document.

Pre-award and/or pre-notice to proceed meetings may be held with the recommended awardee to ensure that the technical specifications and the Contract Equity and Equal Employment Opportunity Guidelines for the project are fully understood, and to discuss the contents of the submitted forms and documents.

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## **D. DOCUMENTATION**

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### **1. CONSTRUCTION CONTRACTS WITH SUBCONTRACTABLE ITEMS ONLY**

Apparent low bidders may be required to document Good Faith Outreach Efforts to achieve subcontractor participation within **48 hours** after bid opening unless this requirement is otherwise stated in the Instruction to Bidders. Failure to submit the required information by the time specified may be grounds for determining the bid nonresponsive.

## II. EQUAL EMPLOYMENT OPPORTUNITY

Pursuant to Policy 1.04 – Contractors’ Compliance With Equal Employment Opportunity, approved by the Board of Directors, all business enterprises and their subcontractors performing work for the District must be Equal Employment Opportunity (EEO) employers. All business enterprises and their subcontractors shall assure that there is no discrimination, harassment or retaliation against any person based on sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (genetic characteristics or cancer), age, marital status, or sexual orientation within the meaning of California Government Code Section 12940, and shall be bound by all laws prohibiting such discrimination, harassment or retaliation in employment.

District contractors must have written policies and procedures that a) prohibit EEO discrimination, harassment and retaliation, and b) set forth the contractor’s investigation procedures for responding to EEO complaints. Contractors must submit documentation of those written policies and procedures upon request by the District in order to be considered as eligible for contract award. Contractors must also post applicable EEO policies and procedures in their workplaces where the District contract is being performed.

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### A. EMPLOYMENT DATA & CERTIFICATION (Form P-025)

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The Employment Data and Certification Form P-025 shall be completed as specified below or bid/proposal may be deemed nonresponsive:

1. For all Bidders/Proposers of the bid/proposal to be submitted with bid package:

Complete Sections A and B of Form P-025. In Section B, the required employment data shall be for the bidder’s/proposer’s permanent workforce<sup>6</sup> only. An EEO-1 Report may be submitted in lieu of completing Section B. For informational purposes, the P-025 Form provides for a comparison of the bidder’s/proposer’s current workforce with the composition of the labor market in the Metropolitan Statistical Area or Areas (MSA) from which the bidder’s/proposer’s workforce is drawn. The bidder/proposer shall also complete Sections C and D of Form P-025.

2. For Subcontractors/Vendors/Truckers within 48 hours:

Each bidder/proposer shall submit a Form P-025 for each subcontractor/vendor/ trucker performing work equal to or greater than **\$60,000** under this specification in accordance with submission requirements given in the Instructions to Bidders or the Request for Proposal. If no submission requirements are given, the Form P-025 must be submitted by the apparent low bidder or recommended proposer within **48 hours** after bid opening or proposal submission due date. The form shall be completed as provided in Paragraph 1. For informational purposes, the P-025 Form provides for a comparison of the subcontractor’s/vendor’s/trucker’s current

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<sup>6</sup> Permanent workforce is defined as employees with 6 months or more of continuous service.

workforce with the composition of the labor market in the MSA from which the subcontractor's/vendor's/trucker's workforce is drawn.

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## **B. GOOD FAITH OUTREACH EFFORTS TOWARDS EQUAL EMPLOYMENT OPPORTUNITY**

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Upon request, the apparent low bidder/proposer shall submit satisfactory documentation showing voluntary and legal Good Faith Outreach Efforts on its part to assure that its employment practices comply with EEO laws.

The District has not attempted to set forth either the minimum or maximum voluntary steps that contractors may take to address their respective employment situations. Contractors who do business with the District have flexibility to make those efforts that are best suited to their particular employment situation so long as those efforts are legal, in good faith and will best serve the goal of equal employment opportunity. Contractors have the option of submitting a copy of their Affirmative Action Plan, if they have one, or documentation of Good Faith Outreach Efforts which may include, but is not limited to, the following:

- Disseminating an equal employment opportunity and affirmative action policy both within the organization and externally.
- Having a recruitment program designed to attract qualified members of all ethnic and gender backgrounds available in the relevant job market such as by:
  - ✓ Notifying community organizations when employment opportunities are available and maintaining records of the organizations' responses;
  - ✓ Maintaining a file of the names and addresses of every worker referred as a result of outreach efforts, indicating what action was taken with respect to each referred person, and if the person was not employed, the reasons why;
  - ✓ Promptly notifying the District when the union(s) with whom the contractor or subcontractor has a collective bargaining agreement has not referred a worker, as requested; and
  - ✓ Making periodic recruitment efforts at schools, organizations, recruitment and training centers.
- Having a systematic plan to organize work and redesign jobs in ways that provide opportunities for persons lacking journey-level knowledge or skills to enter and, with appropriate training, to progress in a career field.
- Revamping selection procedures and seniority practices which have not yet been validated in order to reduce or eliminate exclusionary effects on particular groups in particular job classifications.
- Initiating measures designed to assure that members of all ethnic and gender backgrounds who are qualified to perform the job are included within the pool of persons from which the selection is made.
- Participating in community-based training programs and on-the-job training opportunities.
- Promoting after-school, summer and vacation employment for youth.
- Establishing a system to regularly monitor the effectiveness of the program for removing barriers to achieve equal employment opportunity, and the procedures for making timely adjustments in this program where effectiveness is not demonstrated.

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## **C. CONTRACTORS' EEO RESPONSIBILITIES ARISING FROM THE PERFORMANCE OF THE DISTRICT CONTRACT**

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The District requires all contractors to comply with state and federal EEO laws.

Contractors are required to promptly and appropriately address all EEO concerns that arise from the performance of the District contract raised by:

- Their employees,
- Their job applicants,
- EBMUD employees who allege EEO discrimination or harassment by the contractor or contractor's employee, and/or
- Members of the public who allege EEO discrimination or harassment by the contractor or contractor's employees.

All contractors must cooperate fully with any District investigation of EEO complaints arising from the performance of the District contract that involve District staff. In that event, the District will provide copies of its policies and procedures regarding such investigations, and will require the contractor's cooperation in accordance with those policies and procedures.

All contractors must distribute copies of their EEO policy and EEO complaint procedure to all of their employees and post them in a prominent and accessible location in the workplace or on the project site. These documents must provide the name and contact information of the contractor's staff responsible for responding to EEO concerns.

Contractors are required to provide training to all of their supervisors and managers to assure that they are aware of the contractor's prohibition against EEO discrimination, harassment and retaliation, and understand the process to report EEO concerns; and supervisors and managers must respond appropriately when they become aware of EEO concerns. This training must comply with California Government Code Section 12950.1.

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## **D. MONITORING COMPLIANCE**

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### **1. PRE-CONTRACT AWARD:**

The District will evaluate the documentation provided by the apparent low bidder/ proposer under Section II.B and may request further documentation. The apparent low bidder/proposer shall submit all additional documentation required by the District in a timely manner or may be deemed a nonresponsive bidder/proposer. A nonresponsive bidder/proposer may be deemed ineligible for contract award.

### **2. POST-CONTRACT AWARD:**

The District will evaluate the documentation provided by the contractor in response to EEO complaints filed per Section II.C and may request further documentation. Contractors who fail to submit the required documentation in a timely manner may be denied future contracts with the District or have their contracts terminated.

# III. CONTRACT COMPLIANCE

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## A. RECORDS

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All firms doing business with the District shall:

- maintain records of all business enterprises performing work on the project, and records of total award and payments made to those enterprises,
- permit authorized District staff and/or authorized District representatives to review such records as may be required to assure the accuracy of the submitted information,
- submit a summary of subcontractor payments to the District with each payment request/invoice on the Subcontractor Payment Report (Form P-047) in the format required by the District,
- maintain all employment and personnel records of employees who worked on the District project for a minimum of two years, and
- maintain records of action(s) taken to address EEO discrimination, harassment, and retaliation complaints filed during and arising from the performance of the EBMUD contract.

**NOTE:** Failure to submit the required information in a timely manner may cause the District to hire an auditor, at the contractor's expense, to compile summary payment information, and/or may result in the withholding of payments and/or termination of the contract.

If requested by the District, the contractor shall submit the contractor's and/or subcontractors' records. These records are specified in the contract and may include any or all of the following:

- All contracts or purchase orders entered into with subcontractors, truckers, suppliers, and/or vendors;
- Payment records reflecting total contract award and total dollars actually paid to subcontractors, truckers, suppliers, and/or vendors. Such records shall indicate the name, business address, and actual monthly amount for each firm. Upon completion of the contract, the contractor shall submit, within thirty (30) calendar days, a summary of all the monthly summaries showing total dollars actually paid each firm during the whole contract;
- Certified weekly payroll records showing all employees and workers hired and dollar amounts and wage rates paid for work on this contract. Such payroll records shall include the name, address, social security number, sex, race, and other sufficient information for each employee to allow District verification of contractor and/or subcontractor compliance with the requirements for Equal Employment Opportunity;
- Monthly Employment Utilization Reports within ten (10) days after the end of the month;
- Documentation of all Good Faith Outreach Efforts utilized in order to solicit, promote and increase all availability groups' participation;
- Records of action(s) taken to address EEO discrimination, harassment, and retaliation complaints filed during and arising from the performance of the EBMUD contract; and
- Any other records or documentation maintained by the contractor or its subcontractors which indicate their compliance with these Contract Equity and Equal Employment Opportunity Guidelines.

The contractor and all its subcontractors shall maintain records which include for each employee their:

- name,
- address,
- telephone number,
- construction trade/union affiliation/trade status (if any),
- dates of changes in trade status (if any),
- employee identification number (if any)/social security number,
- race,
- sex,
- hours worked per week in the indicated trade/task, and
- rate of pay.

Records shall be maintained in an easily understandable and retrievable form approved by the District.

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## **B. SUBCONTRACTOR SUBSTITUTION OR REPLACEMENT**

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The contractor may request to substitute or replace any subcontractor, including truckers, vendors, and suppliers, listed on the Form P-040, Contract Equity Participation, filed with the District prior to award of contract. Such requests must be in writing, clearly state the reasons for the substitution or replacement, and provide supporting evidence or documentation as appropriate. No substitution or replacement shall occur without the prior written authorization of the District.

Authorization to utilize another subcontractor may be requested for the following reasons:

1. When the subcontractor listed in the bid after having had a reasonable opportunity to do so fails or refuses to execute a written contract, when that written contract, based upon the general terms, conditions, plans and specifications for the project involved or the terms of such subcontractor's written bid, is presented to the subcontractor by the Contractor, or
2. When the listed subcontractor becomes bankrupt or insolvent, or
3. When the listed subcontractor fails or refuses to perform his subcontract, or
4. When the listed subcontractor fails or refuses to meet the bond requirements of the Contractor as set forth in Section 4108 of the Public Contract Code, or
5. When the Contractor demonstrates to the District, subject to the further provisions set forth in Section 4107.5 of the Public Contract Code, that the name of the subcontractor was listed as the result of an inadvertent clerical error, or
6. When the listed subcontractor is not licensed pursuant to the Contractors License Law, or
7. When the District determines that the work performed by the listed subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, or that the subcontractor is substantially delaying or disrupting the progress of the work, or
8. When the listed subcontractor is ineligible to work on a public works project pursuant to Section 1777.1 or 1777.7 of the Labor Code, or
9. When the listed subcontractor is not a responsible contractor.



Prior to approval of the prime contractor's request for the substitution the District shall give notice in writing to the listed subcontractor of the prime contractor's request to substitute and of the reasons for the request. The notice shall be served by certified or registered mail to the last known address of the subcontractor. The listed subcontractor who has been so notified shall have five working days within which to submit written objections to the substitution to the awarding authority. Failure to file these written objections shall constitute the listed subcontractor's consent to the substitution.

If written objections are filed, the District shall give notice in writing of at least five working days to the listed subcontractor of a hearing by the awarding authority on the prime contractor's request for substitution.

The contractor whose bid is accepted may not:

- (a) permit a subcontract to be voluntarily assigned or transferred or allow it to be performed by anyone other than the original subcontractor listed in the original bid, without the consent of the District.
- (b) Other than in the performance of "change orders" causing changes or deviations from the original contract, sublet or subcontract any portion of the work in excess of one-half of 1 percent of the prime contractor's total bid as to which his or her original bid did not designate a subcontractor.

If a subcontractor is replaced, the contractor shall make Good Faith Outreach Efforts as set forth in these Contract Equity and Equal Employment Opportunity Guidelines when replacing the original or listed subcontractor with another District-approved firm. The contractor shall not be entitled to any payment for such work or material unless it is performed or supplied by the listed subcontractor or by other forces (including those of the contractor) pursuant to prior written authorization of the District.

## IV. CONSEQUENCES OF NONCOMPLIANCE

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### A. ENFORCEMENT

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During the performance of the contract, the District may review the contractor's and its subcontractors' compliance with these Contract Equity and Equal Employment Opportunity Guidelines. Compliance shall be evaluated and measured from the initial day of performance under this contract. Noncompliance may be deemed a substantial material breach of the contract and the contract may be terminated.

Where the District finds the contractor or any of its subcontractors to be in noncompliance, the District may take such actions and impose such sanctions and penalties, described below, as may be appropriate to enforce compliance and recover District costs for damages caused by the breach of contract.

The District will notify the contractor in writing where the contractor or any of its subcontractors are not in compliance with these Contract Equity and Equal Employment Opportunity Guidelines. The contractor shall then notify the District in writing within five (5) working days as to what corrective measures shall be implemented by the contractor and/or subcontractor, trucker, vendor, and supplier to effect compliance.

In the event that the contractor or any of its subcontractors is still in noncompliance fifteen (15) working days after the date of the District's written citation, the contractor shall provide the District, within two (2) working days from the District request to do so, written documentation of all corrective measures and Good Faith Outreach Efforts implemented and their results.

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### B. CONTRACTOR'S NONCOMPLIANCE

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In the event of the contractor's willful or inadvertent noncompliance with these Contract Equity and Equal Employment Opportunity Guidelines during bidding/proposing, the contractor's bid/ proposal may be deemed nonresponsive, and therefore, ineligible for contract award.

In the event of the contractor's noncompliance with these Contract Equity and Equal Employment Opportunity Guidelines during the performance of the contract, whether willful or inadvertent, the contractor may be considered in material breach of contract. In addition to any other remedy which the District may have under this contract or by operation of law, the District in its sole discretion may impose the following provisions against the contractor:

- Withhold progress payments to the contractor starting from the date of the District's written notification of noncompliance to the contractor and continuing for up to sixty (60) working days after the notification date or until compliance is verified by the District, or the contractor demonstrates to the satisfaction of the District that Good Faith Outreach Efforts have been implemented to correct the noncompliance, whichever occurs first.

In the event of willful noncompliance as determined by the District, cancellation or suspension of the contract in whole or in part with continuance thereof conditioned upon a satisfactory showing to the District of the contractor's ability to comply.

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### **C. SUBCONTRACTOR'S NONCOMPLIANCE**

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The contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Contract Equity and Equal Employment Opportunity Guidelines.

The contractor shall take such action, including sanctions and penalties as appropriate, with respect to any subcontract or purchase order as necessary to enforce the terms and conditions of these Contract Equity and Equal Employment Opportunity Guidelines. In the event that the District determines that a subcontractor is in noncompliance, the District may also ask the contractor to terminate any such subcontract and substitute an eligible subcontractor in lieu thereof, at no increase in the contract price or time for performance.

Failure of the contractor to enforce subcontractor compliance with these guidelines may also be deemed a substantial material breach of the contract. The District, in its sole discretion, may impose against the contractor any or all of the provisions noted for contractor's noncompliance until such time that subcontractor's compliance is achieved.

## V. SUMMARY OF FORMS

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### ALL PRIME BIDDERS/PROPOSERS MUST COMPLETE AND SUBMIT WITH BID/PROPOSAL:

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- ☐ **Form P-025** – Employment Data and Certification

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### CONSTRUCTION BIDDERS AND PROFESSIONAL/GENERAL SERVICES PROPOSERS:

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- ☐ **Form P-025** – Employment Data and Certification  
*(for all Subcontractors doing over \$60,000 worth of work for the apparent low bidder/ recommended proposer)*
- ☐ **Form P-041** – Good Faith Outreach Efforts Documentation  
*(apparent low bidder and second low bidder as requested)*
- ☐ **Form P-042** – Contract Equity Program Guidelines Certification Form
- ☐ **Form P-040** – Contract Equity Participation  
*(all proposers and apparent low and second low bidders)*

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### CONSTRUCTION BIDDERS ONLY:

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- ☐ **Form P-046** – Designation of Subcontractors  
*(all bidders must submit with bid)*

# VI. APPENDIX

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## POLICY STATEMENTS

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### **Policy 1.03 – Contract Equity Program**

Prevent the District from participating in or perpetuating ongoing discrimination in the marketplace while avoiding the granting of preferences on the basis of race, gender and other protected categories as prohibited by Article 1, Section 31, of the California Constitution. The District will encourage balanced opportunities among all ethnic and gender groups by establishing objectives for contract participation based on the availability in its geographic market areas of businesses by race and gender that are willing and able to do business with the District. The contracting objectives will be reviewed regularly and the progress reported to the Board of Directors in order to steadily reach a fair and equal parity in contract participation among all ethnic and gender contracting groups.

### **Policy 1.04 – Contractors' Compliance With Equal Employment Opportunity**

Ensure that all enterprises that do business with the District take lawful and adequate steps to assure that their employment practices comply with EEO laws.

Equal employment opportunity is the law of the land. All contractors doing business with the District shall agree not to discriminate against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (genetic characteristics or cancer), age, marital status, or sexual orientation within the meaning of California Government Code Section 12940.

Contractors shall furnish all information and reports required by the District to ensure their compliance with this policy. Notification of this policy will be included in contract specifications and will serve as official notice in determining responsiveness and compliance. Contractors who fail to comply with this policy may be denied contracts with the District or have their contracts terminated.

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## AGENCIES WITH BUSINESS DIRECTORIES

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- **State of California – Department of Transportation**

Civil Rights Program – MS 79

1823 – 14<sup>th</sup> Street, Sacramento, CA 95814

916-324-1700, Fax: 916-324-1949

Toll Free: 866-810-6346

Website: [http://www.dot.ca.gov/hq/bep/doing\\_business.htm](http://www.dot.ca.gov/hq/bep/doing_business.htm)

**Publication Distribution Unit - Disadvantaged Business Enterprise Directory**

1900 Royal Oaks Drive, Sacramento, CA 95815-3800

916-445-3520

- **City of Oakland – Contract Compliance & Employment Services Division**

250 Frank H. Ogawa Plaza, Suite 3341, Oakland, CA 94612

510-238-3970, Fax: 510-238-3363

Website:

<http://www.oaklandnet.com/government/cmo/donspage/WebPages/NewWebPages/homep.html>

- **City and County of San Francisco – Human Rights Commission**

25 Van Ness Avenue, Suite 800, San Francisco, CA 94102-6033

415-252-2500, Fax: 415-431-5764

TDD: 800-735-2922

E-mail: [hrsc.info@sfgov.org](mailto:hrsc.info@sfgov.org)

Website: [http://sfgov.org/site/uploadedfiles/sfhumanrights/directory/vlist\\_1.htm](http://sfgov.org/site/uploadedfiles/sfhumanrights/directory/vlist_1.htm)

- **Bay Area Metropolitan Transportation Agency – Administrative Services**

101 - 8<sup>th</sup> Street, Oakland, CA 94607

510-464-7777, Fax: 510-464-7848

E-mail: [bcecchini@mtc.ca.gov](mailto:bcecchini@mtc.ca.gov)

Website: <http://www.mtc.ca.gov/jobs/dbe/index.htm>

**Special focus:** DBE Database

- **Port of Oakland**

530 Water Street, Oakland, CA 94607

510-627-1100 or 510-627-1436

E-mail: <http://www.portofoakland.com/srd/>

Website: <http://www.portofoakland.com/srd/>

- **General Services Agency - Business Outreach & Compliance Office**

1401 Lakeside Drive, 10th Floor, Oakland, CA 94612

510-208-9629

Email address: [SLEB@acgov.org](mailto:SLEB@acgov.org)

Website: <http://www.co.alameda.ca.us/gsa/sleb/index.shtml>

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## GLOSSARY OF TERMS

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### AVAILABILITY GROUPS:

- **White Men-Owned Business:** An independent business that is at least 51% owned, operated and controlled by one or more nonethnic minority men who are citizens or lawful permanent residents of the United States.
- **White Women-Owned Business:** An independent business that is at least 51% owned, operated and controlled by one or more nonethnic minority women who are citizens or lawful permanent residents of the United States.
- **Ethnic Minority-Owned Business:** An independent business that is at least 51% owned, operated and controlled by one or more ethnic minority men and/or ethnic minority women from the following groups who are citizens or lawful permanent residents of the United States:
  - **Black/African American**  
Persons having origins in any of the racial groups of Africa
  - **Hispanic/Latin American**  
Persons of Mexican, Puerto Rican, Cuban, Central or South American origin
  - **Asian-Pacific Island American**  
Persons having origins from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U. S. Trust Territories of the Pacific, or the Northern Marianas
  - **Asian-Indian American**  
Persons having origins from India, Pakistan, or Bangladesh
  - **Native American**  
Persons having origins in any of the original peoples of the Americas who maintain cultural identification through tribal affiliation or community recognition

### CONTRACTING OBJECTIVES:

The minimum percentage of the total value of a contract to be represented by businesses in each availability group, depending on the type of contract.

### CONTRACTOR:

A company, firm, joint venture or individual who enters into an agreement with the District to provide services, i.e., construction, professional services and general services, and delivery of materials, supplies, and equipment. A contractor may be a construction contractor, a consultant, a vendor, a supplier, or a trucker.

### CONTROL:

There are two aspects of control: operational and managerial control. Under operational control, the 51% or more owner must show that he or she independently makes the basic decisions in daily and long-term business operations. To determine managerial control, the owner must demonstrate that he or she makes independent and unilateral business decisions that guide the future and destiny of payroll clerks, letters of credit, contractual matters, banking services, and other such agreements.

**DEALER:**

One who owns, operates, or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a dealer, the firm must engage in, as its principal business, and in its own name, the purchase and resale of the products in question. A dealer in such bulk items as steel, cement, stone, gravel, and petroleum products need not keep such products in stock, but must own and/or operate distribution equipment to receive full dollar credit.

**INDEPENDENT BUSINESS:**

A business that is not inextricably associated with another firm through ownership, affiliation, or sharing of employees, facilities, profits, and losses.

**GEOGRAPHIC MARKET AREA:**

Counties where most of the businesses are located which receive District contract awards based on contract type as identified in the District's 1997 Disparity Study.

- **Construction:** Alameda, Contra Costa, San Francisco, and San Mateo Counties
- **Professional & General Services:** Alameda, Contra Costa, San Francisco, Santa Clara, and Marin Counties
- **Materials & Supplies:** Alameda, Contra Costa, San Francisco, Santa Clara, and San Joaquin Counties

**JOINT VENTURE:**

An undertaking by two or more persons, without a corporate or partnership designation, formed for the purpose of carrying out a single business enterprise for profit.

**POTENTIAL CONTRACTOR:**

A company, firm, joint venture, or individual who has participated in a competitive bid process or a qualification selection process to do business with the District as a construction contractor, consultant, vendor, supplier, or trucker.

**REASONABLE FEES AND COMMISSIONS:**

Fees and commissions that are not excessive as compared with those customarily allowed for similar services.

**SMALL BUSINESS**

A business with fewer than 100 employees and average annual gross receipts of \$12 million or less over the previous three tax years or is a manufacturer with 100 or fewer employees.

**SUBCONTRACTOR:**

A company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services on a District contract. A subcontractor may be a construction subcontractor, a subconsultant, a vendor, a supplier, or a trucker at any tier/level of participation.

**SUPPLIER:**

A company, firm, joint venture, or individual who provides materials, supplies, or equipment.

**VENDOR:**

A company, firm, joint venture, or individual who enters into an agreement with the District to provide services, i.e., construction, professional services and general services, and delivery of materials, supplies, and equipment. A contractor may be a construction contractor, a consultant, a vendor, a supplier, or a trucker.





# EMPLOYMENT DATA AND CERTIFICATION INSTRUCTIONS (P-025)

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

The East Bay Municipal Utility District **REQUIRES** the completion of this form when submitting any formal bid in response to an Invitation for Bid (IFB), Statement of Qualifications (SOQ), or Request for Proposal (RFP) for materials, equipment, construction or professional or general services. It is the policy of the District to prohibit Equal Employment Opportunity (EEO) discrimination, harassment, and retaliation by any contractor, subcontractor, vendor, supplier, or consultant based on sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (genetic characteristics or cancer), age, marital status, or sexual orientation within the meaning of California Government Code Section 12940. Failure to complete all applicable sections of this form may be considered a nonresponsive reply to the IFB, SOQ or RFP and may cause its rejection.

**THE SECTIONS OF FORM P-025 ARE DESCRIBED BELOW WITH SPECIAL DIRECTIONS.**

## **SECTION A**

### **TYPE OF ORGANIZATION AND COMPOSITION OF OWNERSHIP**

## **SECTION B**

### **EMPLOYMENT DATA AND WORKFORCE LOCATION**

A firm's appropriate Metropolitan Statistical Area (MSA) is defined as the location in which the business solely or predominantly operates to provide requested product(s) or service(s).

## **SECTION C**

### **CERTIFICATION OF COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS**

## **SECTION D**

### **CERTIFICATION OF FIRM'S OWNERSHIP**

## **FORM P-025 SUPPLEMENT**

### **METROPOLITAN STATISTICAL AREA (MSA)**

(for use in Section B-1a for comparing workforce parity)

**Note:** If you have difficulty completing this form or need clarification of the instructions, contact the Contract Equity Office at (510) 287-0114 for assistance prior to submitting your bid or proposal.

# EMPLOYMENT DATA AND CERTIFICATION

COMPLETION OF THIS FORM IS REQUIRED FOR ALL BIDS AND PROPOSALS

## SECTION A

FIRM NAME		<input type="checkbox"/> PRIME  <input type="checkbox"/> SUB  <b>Submit a separate P-25 form for each subcontractor/consultant doing work for \$60,000 or more.</b>	
STREET ADDRESS (City, State, ZIP)			
MAILING ADDRESS (City, State, ZIP)			
PHONE NO.	FAX NO.	WEBSITE	E-MAIL

### A1. TYPE OF ORGANIZATION

Have you ever done business with EBMUD? ☐ YES ☐ NO

<input type="checkbox"/> INDIVIDUAL	Name of Owner: _____		
<input type="checkbox"/> NONPROFIT CORP. <input type="checkbox"/> PRIVATE CORP. <input type="checkbox"/> PUBLICLY HELD CORP.	State of incorporation: _____  Name(s), title, family relationship(s) and percentage of stock ownership for all shareholders who own 25% or more of stock in the corporation.		
NAME	TITLE	FAMILY RELATIONSHIP	PERCENTAGE
_____	_____	_____	%
_____	_____	_____	%
_____	_____	_____	%
<input type="checkbox"/> JOINT VENTURE	List of Participants – Indicate percentage of work to be realized by each.		
			%
			%
<input type="checkbox"/> PARTNERSHIP	Names of Partners – Indicate whether (G) General or (L) Limited.		

### A2. COMPOSITION OF OWNERSHIP

(Indicate the percent of ethnic and gender ownership below)

	Non-Hispanic Origin		Hispanic/ Latin American	Asian			Native American	Other	Refuse to State*
	White/ Caucasian	Black/ African American		Asian American	Asian-Pacific Islander American	Asian- Indian American		Indicate	
MALE									
FEMALE									
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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

The District reserves the right to request support documentation, such as tax records, articles of incorporation and board minutes to verify composition of ownership.

### A3. BUSINESS SIZE INFORMATION

- ☐ Small Business Certified by:
- ☐ State of California ☐ Federal Government ☐ Other
- ☐ Non Small Business

The District reserves the right to request support documentation, such as tax records, articles of incorporation and board minutes to verify composition of ownership and business size.

## SECTION B

### B1. EMPLOYMENT DATA

Indicate below the number of employees in each occupational category for each of the ethnic groups listed for your firm's permanent workforce. (*Permanent workforce is defined as employees with 6 months or more of continuous service.*) You may attach your EEO1 report in lieu of completing section below.

OCCUPATIONS	TOTAL	MALE					FEMALE				
		NON-HISPANIC ORIGIN		Hispanic	Asian or Pacific Islander	American Indian or Alaskan Native	NON-HISPANIC ORIGIN		Hispanic	Asian or Pacific Islander	American Indian or Alaskan Native
		White	Black				White	Black			
a. OFFICIALS & MANAGERS											
b. PROFESSIONALS											
c. TECHNICIANS											
d. SALES WORKERS											
e. OFFICE & CLERICAL											
f. CRAFT WORKERS (SKILLED)											
g. OPERATIVES (SEMI-SKILLED)											
h. LABORERS (UNSKILLED)											
i. SERVICE WORKERS											
<b>FIRM'S TOTALS</b>											
<b>9 BAY AREA COS. TOTALS</b>											
<b>ALAMEDA &amp; CONTRA COSTA COUNTIES</b>											

**B-1a.** Identify the Metropolitan Statistical Area (MSA) from which your firm's total permanent workforce is drawn (see page 5 & 6)

**B-1b.** If your firm's total permanent workforce is located in one county or parish, please identify.

**B-1c.** Is employment data confidential?

☐ YES ☐ NO

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

(PRINT NAME)

TITLE

Telephone Number \_\_\_\_\_

## SECTION C

### CERTIFICATION OF COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS

The undersigned has been (is) authorized to execute this certificate on behalf of \_\_\_\_\_  
(NAME OF FIRM) and does hereby certify that the answers to this compliance form and the information stated herein are true and correct. The undersigned does further certify that \_\_\_\_\_  
(NAME OF FIRM) shall not discriminate against or harass or retaliate against any employee or applicant for employment on account of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (genetic characteristics or cancer), age, marital status, or sexual orientation within the meaning of California Government Code Section 12940, and shall comply with all applicable provisions of State and Federal requirements regarding equal employment opportunity and affirmative action reporting and compliance programs including having a District approved process for responding to complaints of discrimination, harassment, and retaliation.

## SECTION D

### CERTIFICATION OF FIRM'S OWNERSHIP AND BUSINESS SIZE

The undersigned has been (is) authorized to execute this certificate on behalf of \_\_\_\_\_  
(NAME OF FIRM) and swears under penalty of perjury that the foregoing statements are true and correct and that they include all material information necessary to identify and explain the operations of this firm as well as the ownership and business size thereof. Any material misrepresentation will be grounds for terminating any purchase orders or contracts which may be or was awarded and for initiating actions under Federal or State laws concerning false statements.

EXECUTED IN \_\_\_\_\_  
(CITY, COUNTY, STATE)

ON \_\_\_\_\_  
(DATE)

BY \_\_\_\_\_  
(PRINT NAME)

\_\_\_\_\_  
(TITLE)

\_\_\_\_\_  
(SIGNATURE)

\_\_\_\_\_  
(PHONE NUMBER)

# FORM P-025 SUPPLEMENT

Instruction to Determine Your Statistical Areas (SA): If you operate a business solely or predominantly within one of the SA's listed below, use that location. If you have multiple facilities within one (1) state, use a state SA. If you have multiple facilities throughout the United States, use Total United States percentage. If you have any questions, call (510) 287-0114.

## VARIOUS STATISTICAL AREAS (PERMANENT, FULL-TIME WORK FORCE)

### CALIFORNIA STATISTICAL AREAS

	WM%	WW%	EM%		WM%	WW%	EM%
ANAHEIM/SANTA ANA (PMSA)	36.9	30.3	32.8	SACRAMENTO (MSA)	41.2	35.5	23.3
BAKERSFIELD (P)	39.2	31.9	28.9	SALINAS/SEASIDE/MONTEREY (MSA)	28.9	26.0	45.1
FREMONT (P)	36.1	29.0	34.9	SAN DIEGO (MSA)	37.8	31.2	31.0
FRESNO (P)	31.3	28.5	40.2	SAN FRANCISCO (PMSA)	33.4	27.9	38.7
HAYWARD (P)	28.4	23.3	48.3	SAN JOSE (PMSA)	34.4	27.4	38.2
IRVINE (P)	40.7	36.4	22.9	SAN MATEO (P)	36.3	31.5	32.2
LIVERMORE (P)	47.3	37.5	14.0	SANTA BARBARA/SANTA MARIA/LOMPOC (MSA)	36.7	31.4	31.9
LODI (P)	44.0	34.0	21.9	SANTA CRUZ (PMSA)	42.3	34.3	23.4
LOS ANGELES/LONG BEACH (PMSA)	23.5	18.7	54.9	SANTA ROSA/PETALUMA (PMSA)	45.5	39.7	14.8
MERCED (P)	31.7	27.6	41.0	STOCKTON (MSA)	36.7	27.9	35.4
MODESTO (P)	42.8	35.4	21.8	TORRANCE (P)	37.9	30.8	31.3
OAKLAND (PMSA)	34.4	28.7	36.8	UNION CITY (P)	20.3	16.0	63.8
OXNARD/VENTURA (PMSA)	38.2	30.2	31.6	VACAVILLE (P)	42.9	34.4	22.7
PLEASANTON (P)	47.8	39.5	12.8	VALLEJO/FAIRFIELD/NAPA (PMSA)	37.2	30.4	32.4
REDDING	51.8	40.9	7.4	VISALIA/TULARE/PORTERVILLE (MSA)	33.0	26.0	40.9
RIVERSIDE/SAN BERNARDINO (PMSA)	36.8	28.0	35.2				

### CALIFORNIA COUNTIES

	WM%	WW%	EM%		WM%	WW%	EM%
ALAMEDA	31.1	26.3	42.6	RIVERSIDE	37.6	28.4	34.0
AMADOR	51.9	40.6	7.5	SACRAMENTO	39.2	34.6	26.2
BUTTE	47.5	40.7	11.8	SAN BERNARDINO	36.1	27.7	36.2
CALAVERAS	53.0	39.5	7.5	SAN FRANCISCO	29.0	23.3	47.7
CONTRA COSTA	39.8	32.5	27.7	SAN LUIS OBISPO	45.5	38.1	16.4
EL DORADO	50.3	39.4	10.3	SAN JOAQUIN	36.7	27.9	35.4
FRESNO	31.4	26.6	42.0	SAN MATEO	34.0	28.1	37.9
IRVINE	40.7	36.4	22.9	SANTA CLARA	34.4	27.4	38.2
KERN	38.1	28.7	33.1	SOLANO	34.9	28.1	37.0
LOS ANGELES	25.2	20.0	54.	SONOMA	45.5	39.7	14.8
MADERA	35.6	26.6	37.9	STANISLAUS	41.6	32.5	25.9
MARIN	46.0	41.4	12.7	TEHAMA	50.2	38.0	11.9
MENDOCINO	47.3	38.6	14.1	TUOLUMNE	50.7	41.3	8.1
MERCED	33.1	25.9	41.0	YOLO	38.2	33.7	28.2
NAPA	44.0	37.1	18.8	YUBA	43.4	35.5	21.1
ORANGE	36.9	30.3	32.8	9 BAY AREA COUNTIES*	35.0	28.9	36.0

(WM = White Male, WW = White Women and EM = Ethnic Minority)

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

These figures were compiled from the 1990 Census of Population conducted by the United States Department of Commerce, Bureau of the Census. The data was formatted from the 1990 Bureau of the Census EEO Special File. (PMSA = Primary Metropolitan Statistical Area, MSA = Metropolitan Statistical Area, and P = Cities and Townships)

## NATIONAL STATISTICAL AREAS

	WM%	WW%	EM%		WM%	WW%	EM%
ALLENTOWN, PA (P)	45.1	40.9	14.0	INDIANAPOLIS, IN (MSA)	46.3	39.8	13.9
ATLANTA, GA (MSA)	39.7	32.9	27.4	JACKSONVILLE, FL (MSA)	42.6	35.9	21.5
AUSTIN, TX (MSA)	38.3	32.9	34.2	KANSAS CITY, MO (MSA)	45.5	39.5	15.0
BALTIMORE, MD (MSA)	40.3	33.6	26.1	LEBANON CO., PA (MSA)	52.4	45.0	2.6
BATON ROUGE, LA (MSA)	41.2	31.1	27.8	LOUISVILLE, KY (P)	38.7	34.5	26.8
BOSTON, MA (P)	33.3	31.6	35.1	MIAMI/HIALEAH, FL (PMSA)	16.4	13.7	69.8
BOULDER/LONGMONT, CO (PMSA)	49.6	41.3	9.1	MILWAUKEE, WI (PMSA)	46.1	40.0	13.9
BUCKS CO., PA (P)	52.5	41.9	5.6	MINNEAPOLIS/ST. PAUL, MN (MSA)	49.7	44.2	6.1
BUFFALO, NY (PMSA)	47.7	40.6	11.7	NEW ORLEANS, LA (MSA)	36.1	28.6	35.3
CAMBRIDGE, MA (P)	37.5	37.8	24.7	NEW YORK CITY, NY (PMSA)	28.2	23.8	48.1
CANTON, OH (P)	44.6	37.9	17.5	NEWARK, NJ (PMSA)	36.5	29.8	33.6
CHICAGO, IL (PMSA)	36.7	30.6	32.6	PHILADELPHIA, PA (PMSA)	43.1	35.8	21.0
CINCINNATI, OH (MSA)	47.7	40.2	12.1	PHOENIX, AZ (MSA)	43.6	36.4	20.0
CLEVELAND, OH (PMSA)	44.5	36.6	18.9	PITTSBURGH, PA (PMSA)	50.7	41.4	7.9
COLUMBUS, OH (MSA)	47.4	40.4	12.2	PORTLAND, OR (PMSA)	48.8	40.9	10.2
DALLAS, TX (PMSA)	38.2	31.9	29.9	RENO, NV (P)	44.2	36.8	18.9
DECATUR, IL (MSA)	49.9	39.1	10.9	SALT LAKE CITY, UT (MSA)	50.2	40.8	15.4
DENVER, CO (PMSA)	43.4	37.8	18.8	SAN ANTONIO, TX (MSA)	25.8	22.2	52.0
DETROIT, MI (PMSA)	44.7	34.8	20.4	SEATTLE, WA (PMSA)	47.6	39.2	13.2
DUBUQUE, IA (P)	51.1	47.2	1.3	ST. LOUIS, MO (MSA)	45.5	37.9	16.6
EVERETT, WA (P)	51.6	40.1	8.3	ST. PETERSBURG/TAMPA, FL (MSA)	44.5	39.0	16.5
GALLATIN CO., MT (P)	52.8	43.8	3.4	SUFFOLK CITY, VA	34.2	26.6	39.3
GENESSEE CO., NY (P)	52.7	43.6	3.6	TACOMA, WA (PMSA)	47.2	39.2	13.6
HALIFAX CO., NC (P)	29.4	24.5	36.9	WASHINGTON, DC (MSA)	34.2	30.2	35.6
HOUSTON, TX (PMSA)	34.3	26.5	39.2	WAUKESHA, WI (P)	48.7	44.4	7.0

## STATES

	WM%	WW%	EM%		WM%	WW%	EM%		WM%	WW%	EM%
ALABAMA	43.4	33.8	22.8	LOUISIANA	40.7	30.3	29.0	OHIO	49.1	40.0	10.9
ALASKA	44.7	34.7	20.6	MAINE	52.7	45.5	1.8	OKLAHOMA	46.1	37.5	16.4
ARIZONA	41.3	34.6	24.1	MARYLAND	38.4	32.3	29.3	OREGON	50.1	41.2	8.7
ARKANSAS	46.9	38.4	14.7	MASSACHUSETTS	47.6	42.4	10.0	PENNSYLVANIA	49.4	40.2	10.4
CALIFORNIA	33.5	27.1	39.3	MICHIGAN	47.4	38.2	14.5	RHODE ISLAND	47.9	43.0	9.1
COLORADO	45.0	38.5	16.5	MINNESOTA	51.2	44.3	4.5	SOUTH CAROLINA	39.4	33.0	27.7
CONNECTICUT	46.3	39.7	14.0	MISSISSIPPI	38.6	30.6	30.7	SOUTH DAKOTA	51.0	43.4	5.6
DELAWARE	43.5	37.7	18.8	MISSOURI	48.1	40.3	11.6	TENNESSEE	46.6	38.1	15.3
FLORIDA	39.9	33.6	26.5	MONTANA	51.6	42.2	6.2	TEXAS	36.1	28.8	35.1
GEORGIA	40.3	33.2	26.4	NEBRASKA	50.4	43.4	6.2	UTAH	51.3	40.6	8.1
HAWAII	16.6	14.1	69.4	NEVADA	44.3	35.5	20.2	VERMONT	52.5	45.7	1.7
IDAHO	51.8	40.9	7.3	NEW HAMPSHIRE	52.2	45.4	1.1	VIRGINIA	41.9	35.9	22.2
ILLINOIS	42.8	35.3	22.0	NEW JERSEY	41.4	34.1	24.6	WASHINGTON	48.6	39.6	11.8
INDIANA	49.8	41.1	9.1	NEW MEXICO	30.4	24.9	44.8	WEST VIRGINIA	55.6	40.7	3.6
IOWA	52.2	44.5	3.3	NEW YORK	39.3	32.9	27.8	WISCONSIN	50.6	43.0	6.3
KANSAS	49.1	41.1	9.7	NORTH CAROLINA	41.9	36.0	22.1	WYOMING	51.6	41.0	7.4
KENTUCKY	51.6	41.1	7.3	NORTH DAKOTA	52.6	43.6	3.8				

## TOTAL UNITED STATES

WM%	WW%	EM%
42.8	35.4	21.8



# CONTRACT EQUITY PARTICIPATION (P-040)

BIDDER'S /  
PROPOSER'S NAME

PROJECT NAME

ADDRESS

SPEC. / PROPOSAL NO. (If applicable)

E-MAIL ADDRESS

BID / PROPOSAL AMOUNT \$

PHONE NO.

FAX NO.

Note: This form shall be submitted by **first and second** apparent low bidders within 48 hours of bid for construction projects and by **all proposers** with their proposal for professional and general services. All subcontractors<sup>1</sup>, truckers and suppliers shall be listed on this form and must also complete a P-025 form if they are doing work for over \$60,000.

COMPANY AND CONTACT NAME, ADDRESS, PHONE NUMBER AND E-MAIL ADDRESS	OWNERSHIP		TYPE OF WORK TO BE DONE <sup>3</sup>	ESTIMATED DOLLAR AMOUNT
	ETHNICITY <sup>2</sup>	GENDER		
		M F		

Note: Additional spaces are provided on the back of this form.

The above bidder/proposer shall enter into a formal agreement with the subcontractors, truckers and suppliers for work listed in this schedule conditioned upon execution of a contract with East Bay Municipal Utility District. Substitution or replacements of these subcontractors must comply with Section III.B. Substitution or Replacement in the Contract Equity Program and Equal Employment Opportunity Guidelines.

Signature of Authorized Bidder / Proposer's Official

Date

Print Name

Title

<sup>1</sup> Subcontractor is defined as a company, firm, joint venture, or individual who enters into an agreement with a contractor to provide services on a District contract. A subcontractor may be a construction subcontractor, subconsultant, vendor, supplier, or trucker at any tier level of participation.

<sup>2</sup> Ethnic Classifications: **A/PI** Asian-Pacific Islander American **H/LA** Hispanic/Latin American **W/C** White/Caucasian  
**B/AA** Black/African American **NA** Native American

<sup>3</sup> If 100% of items is not to be performed or furnished by the subcontractor, describe exact portion, location (if necessary) of item to be performed or furnished by that subcontractor.

## CONTRACT EQUITY PARTICIPATION (P-040)

[illegible]





## GOOD FAITH OUTREACH EFFORTS DOCUMENTATION (P-041)

The apparent low bidder shall submit the following information to demonstrate that a good faith outreach effort to meet the contracting Objectives has been made if its Form P-040 Contract Equity Participation indicates that the Contracting Objectives will not be met. It is suggested that even if the Contracting Objectives appear to be met on Form P-040, this form still needs to be completed in case the contracting Objectives are determined by District evaluation to have not been met.

The *complete* description of the following items along with all of the Good Faith Outreach Efforts (GFOE's) are in the Section IA of the Contract Equity Program and Equal Employment Opportunity Guidelines:

- Items of works for which the bidder requested subbids, trucking or materials to be supplied by subcontractors in all availability groups
- Information furnished interested subcontractors, truckers, or suppliers in the way of plans, specifications and requirements for the work
- Any breakdown of items of work into economically feasible units to facilitate subcontractor participation (*GFOE's #2 & 6*)

ITEMS OF WORK OR SUPPLIES IDENTIFIED	
1	6
2	7
3	8
4	9
5	10
INFORMATION FURNISHED	
BREAKDOWN OF ITEMS	



## GOOD FAITH OUTREACH EFFORTS DOCUMENTATION (P-041)

- The names and dates of advertisements in the project's geographic market area of each newspaper, trade paper, and availability group focus paper in which a request for subcontractor participation for this project was placed by the bidder (*GFOE #3*)

NAME OF PUBLICATION	DATES OF ADVERTISEMENT

- The names and dates of notices of all subcontractors in the project's geographic market area solicited by direct mail, and the dates and methods used for following up initial solicitations to determine with certainty whether the subcontractors were interested (*GFOE's #4 & 5*)

NAME OF SUBCONTRACTOR SOLICITED	SOLICITATION DATES	FOLLOW UP METHODS	FOLLOW UP DATES



## GOOD FAITH OUTREACH EFFORTS DOCUMENTATION (P-041)

- The names of subcontractors who submitted bids for any of the work indicated on page one of this form whose bids were not accepted
- A summary of the bidder's discussions and/or negotiations with them
- The name of the subcontractor or supplier that was selected for that portion of the work, and the reasons for the bidder's choice. *(If the reason for rejecting a bid was price, give the price bid by the rejected subcontractor and the price bid by the selected subcontractor or supplier.) (GFOE #8)*

NAME OF REJECTED SUBCONTRACTOR	SUMMARY OF DISCUSSIONS / NEGOTIATIONS	NAME OF SELECTED SUBCONTRACTOR AND REASONS FOR THAT CHOICE

Please Note: Use additional sheets of paper, if necessary.



## GOOD FAITH OUTREACH EFFORTS DOCUMENTATION (P-041)

- Assistance that the bidder has extended to rejected subcontractors identified above to remedy the deficiency in their subbids (*GFOE #9*)

NAME OF REJECTED SUBCONTRACTOR	ASSISTANCE EXTENDED

- Any additional data to support a demonstration of good faith efforts, such as contacts with subcontractor's assistance agencies (*GFOE #7*):

NAME OF COMMUNITY ORGANIZATIONS OR CONTRACTORS GROUPS	ADDITIONAL GOOD FAITH OUTREACH EFFORTS

**Please Note:** Use additional sheets of paper, if necessary. Appropriate documentation, such as copies of newspaper ads, letters soliciting bids, and telephone logs, should accompany this form.



# CONTRACT EQUITY PROGRAM GUIDELINES CERTIFICATION (P-042)

Pursuant to the East Bay Municipal Utility District's ("District") Contract Equity Program Guidelines, Section I, Paragraph A.1, I hereby declare, under the penalty of perjury under the laws of the State of California, that

- 1) I am duly authorized to execute this certification on behalf of my company, corporation, joint-venture or sole-proprietorship, which has submitted a bid/proposal to District Specification/Proposal No. \_\_\_\_\_ ;
- 2) I am familiar with the District's Contract Equity Program Guidelines, and have read and understood all of the program's requirements;
- 3) I understand and agree to comply with the District's Contract Equity Program, and all of the requirements therein, including each of the Good Faith Outreach Efforts; and
- 4) I understand and agree to comply with the District's Equal Employment Opportunity (EEO) (nondiscrimination and harassment and retaliation) policies and procedures. I will post and distribute applicable District-supplied EEO material. My firm has a process for responding to complaints of EEO discrimination, harassment, and retaliation and a copy will be provided upon request.
- 5) I understand, and expressly agree, on behalf of my company, corporation, joint-venture or sole-proprietorship, that the District may disqualify the bid/proposal submitted if we have not complied with the District's Contract Equity Program, and all of the requirements therein.

EXECUTED IN \_\_\_\_\_

(City, County, State)

ON \_\_\_\_\_

FOR \_\_\_\_\_

(Month, Date, Year)

(Bidder's / Proposer's Company Name)

BY \_\_\_\_\_

(Print Name)

(Title)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Phone Number)





## DESIGNATION OF SUBCONTRACTORS (P-046)

Name of Bidder/Proposer \_\_\_\_\_

In compliance with the provisions of the Subletting and Subcontracting Fair Practices Act (Division 2, Part 1, Chapter 4 of the Public Contract Code of the State of California, and any amendments thereof), each bidder shall set forth below:

1. The name and location of the place of business of each subcontractor who will perform work or labor or render service to the Contractor in or about the construction of the work or improvement, or a subcontractor licensed in the State of California who, under subcontract to the Contractor, specially fabricates and installs a portion of the work or improvement according to detailed drawings contained in the plans and specifications, in an amount in excess of one-half of one percent of the Contractor's total bid.
2. The portion and estimated dollar amount of the work which will be done by each subcontractor. The Contractor shall list only one subcontractor for each portion as is defined by the Contractor in his bid.

Please type or legibly print (attach additional sheets as necessary)

SUBCONTRACTOR'S COMPANY NAME CONTACT NAME / ADDRESS / PHONE NO.	DESCRIPTION OF WORK TO BE PERFORMED	ESTIMATED \$ AMOUNT

(See other side)

DS-1

# Designation of Subcontractors – From Public Contract Code Section 4105 - 4110

Circumvention by a general contractor who bids as a prime contractor of the requirement under Section 4104 for him or her to list his or her subcontractors, by the device of listing another contractor who will in turn sublet portions constituting the majority of the work covered by the prime contract, shall be considered a violation of this chapter and shall subject that prime contractor to the penalties set forth in Sections 4110 and 4111.

If a prime contractor fails to specify a subcontractor or if a prime contractor specifies more than one subcontractor for the same portion of work to be performed under the contract in excess of one-half of 1 percent of the prime contractor's total bid, the prime contractor agrees that he or she is fully qualified to perform that portion himself or herself, and that the prime contractor shall perform that portion himself or herself. If after award of contract, the prime contractor subcontracts, except as provided for in Sections 4107 or 4109, any such portion of the work, the prime contractor shall be subject to the penalties named in Section 4111.

A prime contractor whose bid is accepted may not:

- (a) Substitute a person as subcontractor in place of the subcontractor listed in the original bid, except that the awarding authority, or its duly authorized officer, may, except as otherwise provided in Section 4107.5, consent to the substitution of another person as a subcontractor in any of the following situations:
  - (1) When the subcontractor listed in the bid, after having had a reasonable opportunity to do so, fails or refuses to execute a written contract for the scope of work specified in the subcontractor's bid and at the price specified in the subcontractor's bid, when that written contract, based upon the general terms, conditions, plans, and specifications for the project involved or the terms of that subcontractor's written bid, is presented to the subcontractor by the prime contractor.
  - (2) When the listed subcontractor becomes bankrupt or insolvent.
  - (3) When the listed subcontractor fails or refuses to perform his or her subcontract.
  - (4) When the listed subcontractor fails or refuses to meet the bond requirements of the prime contractor as set forth in Section 4108.
  - (5) When the prime contractor demonstrates to the awarding authority, or its duly authorized officer, subject to the further provisions set forth in Section 4107.5, that the name of the subcontractor was listed as the result of an inadvertent clerical error.
  - (6) When the listed subcontractor is not licensed pursuant to the Contractors License Law.
  - (7) When the awarding authority, or its duly authorized officer, determines that the work performed by the listed subcontractor is substantially unsatisfactory and not in substantial accordance with the plans and specifications, or that the subcontractor is substantially delaying or disrupting the progress of the work.
  - (8) When the listed subcontractor is ineligible to work on a public works project pursuant to Section 1777.1 or 1777.7 of the Labor Code.
  - (9) When the awarding authority determines that a listed subcontractor is not a responsible contractor.

Prior to approval of the prime contractor's request for the substitution, the awarding authority, or its duly authorized officer, shall give notice in writing to the listed subcontractor of the prime contractor's request to substitute and of the reasons for the request. The notice shall be served by certified or registered mail to the last known address of the subcontractor. The listed subcontractor who has been so notified has five working days within which to submit written objections to the substitution to the awarding authority. Failure to file these written objections constitutes the listed subcontractor's consent to the substitution.

If written objections are filed, the awarding authority shall give notice in writing of at least five working days to the listed subcontractor of a hearing by the awarding authority on the prime contractor's request for substitution.

- (b) Permit a subcontract to be voluntarily assigned or transferred or allow it to be performed by anyone other than the original subcontractor listed in the original bid, without the consent of the awarding authority, or its duly authorized officer.
- (c) Other than in the performance of "change orders" causing changes or deviations from the original contract, sublet or subcontract any portion of the work in excess of one-half of 1 percent of the prime contractor's total bid as to which his or her original bid did not designate a subcontractor.

No subcontractor listed by a prime contractor under Section 4104 as furnishing and installing carpeting, shall voluntarily sublet his or her subcontract with respect to any portion of the labor to be performed unless he or she specified the subcontractor in his or her bid for that subcontract to the prime contractor.

The prime contractor as a condition to assert a claim of inadvertent clerical error in the listing of a subcontractor shall within two working days after the time of the prime bid opening by the awarding authority give written notice to the awarding authority and copies of that notice to both the subcontractor he or she claims to have listed in error and the intended subcontractor who had bid to the prime contractor prior to bid opening.

Any listed subcontractor who has been notified by the prime contractor in accordance with this section as to an inadvertent clerical error shall be allowed six working days from the time of the prime bid opening within which to submit to the awarding authority and to the prime contractor written objection to the prime contractor's claim of inadvertent clerical error. Failure of the listed subcontractor to file the written notice within the six working days shall be primary evidence of his or her agreement that an inadvertent clerical error was made.

The awarding authority shall, after a public hearing as provided in Section 4107 and in the absence of compelling reasons to the contrary, consent to the substitution of the intended subcontractor:

- (a) If (1) the prime contractor, (2) the subcontractor listed in error, and (3) the intended subcontractor each submit an affidavit to the awarding authority along with such additional evidence as the parties may wish to submit that an inadvertent clerical error was in fact made, provided that the affidavits from each of the three parties are filed within eight working days from the time of the prime bid opening, or
- (b) If the affidavits are filed by both the prime contractor and the intended subcontractor within the specified time but the subcontractor whom the prime contractor claims to have listed in error does not submit within six working days, to the awarding authority and to the prime contractor, written objection to the prime contractor's claim of inadvertent clerical error as provided in this section.

If the affidavits are filed by both the prime contractor and the intended subcontractor but the listed subcontractor has, within six working days from the time of the prime bid opening, submitted to the awarding authority and to the prime contractor written objection to the prime contractor's claim of inadvertent clerical error, the awarding authority shall investigate the claims of the parties and shall hold a public hearing as provided in Section 4107 to determine the validity of those claims. Any determination made shall be based on the facts contained in the declarations submitted under penalty of perjury by all three parties and supported by testimony under oath and subject to cross-examination. The awarding authority may, on its own motion or that of any other party, admit testimony of other contractors, any bid registries or depositories, or any other party in possession of facts which may have a bearing on the decision of the awarding authority.

If a contractor who enters into a contract with a public entity for investigation, removal or remedial action, or disposal relative to the release or presence of a hazardous material or hazardous waste fails to pay a subcontractor registered as a hazardous waste hauler pursuant to Section 25163 of the Health and Safety Code within 10 days after the investigation, removal or remedial action, or disposal is completed, the subcontractor may serve a stop notice upon the public entity in accordance with Chapter 4 (commencing with Section 3179) of Title 15 of Part 4 of Division 3 of the Civil Code.

- (a) It shall be the responsibility of each subcontractor submitting bids to a prime contractor to be prepared to submit a faithful performance and payment bond or bonds if so requested by the prime contractor.
- (b) In the event any subcontractor submitting a bid to a prime contractor does not, upon the request of the prime contractor and at the expense of the prime contractor at the established charge or premium therefor, furnish to the prime contractor a bond or bonds issued by an admitted surety wherein the prime contractor shall be named the obligee, guaranteeing prompt and faithful performance of the subcontract and the payment of all claims for labor and materials furnished or used in and about the work to be done and performed under the subcontract, the prime contractor may reject the bid and make a substitution of another subcontractor subject to Section 4107.
- (c) (1) The bond or bonds may be required under this section only if the prime contractor in his or her written or published request for subbids clearly specifies the amount and requirements of the bond or bonds.
  - (2) If the expense of the bond or bonds required under this section is to be borne by the subcontractor, that requirement shall also be specified in the prime contractor's written or published request for subbids.
  - (3) The prime contractor's failure to specify bond requirements, in accordance with this subdivision, in the written or published request for subbids shall preclude the prime contractor from imposing bond requirements under this section.

Subletting or subcontracting of any portion of the work in excess of one-half of 1 percent of the prime contractor's total bid as to which no subcontractor was designated in the original bid shall only be permitted in cases of public emergency or necessity, and then only after a finding reduced to writing as a public record of the awarding authority setting forth the facts constituting the emergency or necessity.

A prime contractor violating any of the provisions of this chapter violates his or her contract and the awarding authority may exercise the option, in its own discretion, of (1) canceling his or her contract or (2) assessing the prime contractor a penalty in an amount of not more than 10 percent of the amount of the subcontract involved, and this penalty shall be deposited in the fund out of which the prime contract is awarded. In any proceedings under this section the prime contractor shall be entitled to a public hearing and to five days' notice of the time and place thereof.



***ATTACHMENT D***

***STANDARD CONTRACT***

*(Standard Consulting Agreement for  
Contracts Greater than \$25,000 - Revised 4/22/08*



*(Standard Consulting Agreement for  
Contracts Greater than \$25,000 - Revised 4/22/08)*  
*(Note: Reference District Procedure No. 124)*  
**CONSULTING AGREEMENT  
FOR  
EAST BAY MUNICIPAL UTILITY DISTRICT**

*(Project Title)*

THIS Agreement is made and entered into this \_\_\_\_\_ day of *(month)*, 200*(insert year)*, 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 and expertise to perform said services in a professional and competent manner; and

***IF OVER \$60,000:***

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

***-OR- IF BETWEEN \$25,000 AND \$60,000:***

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 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.

*(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.

#### **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.

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:

\$1,000,000/Occurrence, Bodily Injury, Property Damage – Automobile.

\$1,000,000/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;
8. The policy(ies) cover(s) products and completed operations.
9. The policy(ies) cover(s) use of non-owned automobiles and equipment.
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 against any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, gender, age, marital status, disability, or sexual orientation in the performance of this contract. CONSULTANT shall not establish or permit any such practice(s) of discrimination with reference to the contract or any part thereof. CONSULTANTS determined to be in violation of this section shall be deemed to be in material breach of this Agreement.
- 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 - TERMS**

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, or in any event, no later than \_\_\_\_\_. *(insert date 1 year from contract date)* The terms of this Agreement may be amended only in writing signed by both parties.

***(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)***

Rev. 4/22/08

## **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:

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. 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, Construction Related Work During Design and Preconstruction Phases of Construction. ***(Optional Insert – include this paragraph 2.9 and all its*****

***subparagraphs 1-14 only 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.)***

(1) Pursuant to Sections 1774 and 1720 of the Labor Code of the State of California, CONSULTANT and any subcontractor or subconsultant under it shall pay not less than the specified prevailing rate of wages to all covered workers employed in the execution of the construction related work under this Agreement. Covered work is defined as work subject to Labor Code Sections 1720.3, 1774 and 1720.

(2) 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 and available for inspection by any interested party on request at the District's Specifications and Cost Estimating Section.

(3) CONSULTANT shall post a copy of the general prevailing rate of per diem wages at the jobsite pursuant to Section 1773.2 of the Labor Code of the State of California.

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

(5) As set forth with more specificity in Section 1773.1 of the Labor Code, "per diem" wages shall be deemed to 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.

(6) CONSULTANT shall, as a penalty to the State or the District, forfeit not more than Fifty Dollars for each calendar day, or portion thereof, for each covered worker paid less than the prevailing rates for the work or craft in which the covered worker is employed under the contract by CONSULTANT or by any subcontractor or subconsultant under it. The difference between the prevailing wage rates and the amount paid to each covered 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 CONSULTANT.

(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(b), 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 CONSULTANT's payment of these predetermined wage modifications.

(8) CONSULTANT and each subcontractor or subconsultant performing covered work under this Agreement 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 such covered 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.

(9) CONSULTANT shall submit for each week in which any covered work is performed, a copy of all payrolls to the DISTRICT's Project Manager. CONSULTANT shall be responsible for submission of copies of payroll records of all subcontractors or subconsultants required to pay prevailing wage. Payrolls shall be completed and submitted by the 25th of the month for the previous 30-day period, which started on the 15th of the previous month to the 15<sup>th</sup> of the current month.

(10) Certified payroll records shall be on the forms provided by the Department of Industrial Relations or contain the same information required on the Department's form. Copies of the form may be obtained from:

Division of Labor Standards Enforcement  
Bureau of Field Enforcement  
2424 Arden Way, Suite 340  
Sacramento, CA 95825  
(916) 263-2890

CONSULTANT, subcontractor or subconsultant shall certify the payroll records as shown on the reverse of the State form. In addition, the records shall be accompanied by a statement signed by the CONSULTANT, subcontractor or subconsultant, certifying that the classifications truly reflect the covered work performed and that the wage rates are not less than those required to be paid.

(11) In the event of noncompliance with the requirements of Section 1776 of the Labor Code, CONSULTANT shall have 10 days in which to comply subsequent to receipt of written notice specifying in what respects such CONSULTANT must comply with said Section. Should noncompliance still be evident after such ten-day period, CONSULTANT shall, as a penalty to the State or the District, forfeit Twenty-Five Dollars (\$25.00) for each calendar day, or portion thereof, for each covered 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.

(12) Pursuant to the provisions of Sections 1810 et. seq. of the Labor Code of the State of California and any amendments thereof:

- (a) Eight hours labor constitutes a legal day's work under the contract.
- (b) The time of service of any covered 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 Paragraph (d) below.
- (c) CONSULTANT shall, as a penalty to the State or the District, forfeit Twenty-Five Dollars for each covered 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) Covered work performed by employees of CONSULTANT 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) CONSULTANT and every subconsultant or subcontractor shall keep an accurate record showing the name of and the actual hours worked each calendar day and each calendar week by each covered worker employed by him or her 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.

(13) To the extent required by law, CONSULTANT and any subconsultant or subcontractor shall comply with the provisions concerning the employment of apprentices in Section 1777.5 of the Labor Code of the State of California and any amendments thereof. In the event the CONSULTANT or any subcontractor or subconsultant willfully fails to comply, such CONSULTANT, subconsultant or subcontractor shall be subject to the penalties for noncompliance in Labor Code Section 1777.7.

(14) CONSULTANT or any subconsultant or subcontractor responsible for any on-site occupation of construction under this Agreement shall comply with and post at the job site, Industrial Welfare Commission Order No. 16-2001 regulating wages, hours and working conditions for certain on-site occupations in the construction, drilling, logging and mining industries. Copies of this order may be obtained from the Department of Industrial Relations Public Information Office, P.O. Box 420603, San Francisco, CA 94142-0603, telephone (415) 703-5070, or on the internet at <http://www.dir.ca.gov/IWC>.

*(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

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

## 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							Total
	Project Manager	Project Engineer	Drafting	Subtotal	Sub. #1			Sub. #2				
					Project Eng.	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)*.



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***ATTACHMENT E***  
***NON-NEGOTIABLE TERMS***



**NON-NEGOTIABLE TERMS**

**Insurance and Licenses**

It is understood and agreed that CONSULTANT has the professional skills necessary to perform the work agreed to be performed under this Agreement, that EAST BAY MUNICIPAL UTILITY DISTRICT (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 technology provider's 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.

**Confidentiality**

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.

**Contract Equity Program**

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.

**Anti-Discrimination**

There shall be no discrimination against any person, or group of persons, on account of race, color, religion, creed, national origin, ancestry, gender, age, marital status, disability, or sexual orientation in the performance of this contract. CONSULTANT shall not establish or permit any such practice(s) of discrimination with reference to the contract or any part thereof. CONSULTANTS determined to be in violation of this section shall be deemed to be in material breach of this Agreement.

**Termination of Agreement**

This Agreement may be terminated by DISTRICT immediately for cause or upon 10 days written notice, without cause, during the performance of the work.

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.

### **Governing Law**

This Agreement and all matters relating to it shall be governed by the laws of the State of California.

### **Ownership**

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.

### **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.

### **Commercial General and Auto Liability Insurance**

CONSULTANT shall take out and maintain during the life of the Agreement Commercial General and 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:

\$1,000,000/Occurrence, Bodily Injury, Property Damage – Automobile.

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

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

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;
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(ies) cover(s) products and completed operations.
8. The policy(ies) cover(s) use of owned, non-owned, and hired automobiles.
10. The policy(ies) shall not be canceled nor reduced unless 30 days' written notice is given to DISTRICT.

#### **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.





***ATTACHMENT F***

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***CERTIFICATES OF WORKERS COMPENSATION, PROFESSIONAL LIABILITY,  
AND COMMERCIAL GENERAL AND AUTO LIABILITY***





## 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 at 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 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 *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 *owned, non-owned, and hired* 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 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 \_\_\_\_\_

Address \_\_\_\_\_

Firm \_\_\_\_\_

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 at 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."