

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: **Transition Plan for Chief Executive Officer/General Manager (CEO/GM)**

Summary:

At the recommendation of CalPERS staff and attorneys, BAWSCA will not create a new position of “Transition Manager” to ensure the institutional knowledge and expertise of its current Chief Executive Officer/General Manager (CEO/GM), Nicole Sandkulla, is carried over to BAWSCA’s new CEO/GM, Thomas Smegal, who is anticipated to officially assume his role on or around December 1, 2024. Instead, Ms. Sandkulla and Mr. Smegal will both hold the position of CEO/GM during December to facilitate the transition of this role.

Fiscal Impact:

It is anticipated that Ms. Sandkulla will remain in the CEO/GM role for approximately one month (December 2024). Sufficient funds are estimated to be available in the adopted budget for FY 2024-25 to fund both Mr. Smegal and Ms. Sandkulla holding this position. No budget adjustment is needed at this time.

If the estimate at mid-year indicates that the adopted operating budget will be insufficient through the end of the year, the additional increment of funding will be relatively small and may be available from savings in other areas of the budget or, if necessary, from BAWSCA’s General Reserve. However, it is anticipated that this will not be necessary.

Board Policy Committee Action:

The Committee voted unanimously to recommend the creation of a Transition Manager position to facilitate the transition of the CEO/GM role from Ms. Sandkulla to Mr. Smegal. Based on recent discussions with CalPERS staff and attorneys, it is not recommended to create a new position; rather, CalPERS recommends having both Ms. Sandkulla and Mr. Smegal hold the position of CEO/GM for a short time to effectuate the transition.

This is an informational item. No action is required.

Discussion:

BAWSCA’s current CEO/GM Nicole Sandkulla has served over 11 years as BAWSCA’s CEO/GM following 14 years with BAWSCA and BAWSCA’s predecessor agency, the Bay Area Water Users Association (BAWUA). During this time period, Ms. Sandkulla has amassed a knowledge base and understanding of the critical issues that impact BAWSCA and its 26 member agencies. She has also cultivated a wide array of professional relationships that have benefitted BAWSCA and improved communication and negotiations with the City and County of San Francisco. BAWSCA is also currently without the services of its Strategic Counsel consultant, an important role that has supported the CEO/GM with strategic advice and counsel since BAWSCA’s inception in 2003.

The retirement of Ms. Sandkulla at the end of this calendar year and the vacant Strategic Counsel consultant role present significant challenges for the incoming CEO/GM Thomas Smegal to quickly take over leadership of BAWSCA and ensure ongoing critical projects and negotiations are completed successfully. To ensure a successful transition from Ms. Sandkulla to Mr. Smegal, it is vital that Ms. Sandkulla remains a BAWSCA employee for a one month transition period (December 2024) to provide essential guidance and expertise to Mr. Smegal.

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At the recommendation of CalPERS staff and attorneys, Ms. Sandkulla will remain in the BAWSCA employee classification of CEO/GM when Mr. Smegal assumes the position of incoming CEO/GM in December. By staying in this classification, Ms. Sandkulla will provide necessary transition services to Mr. Smegal to ensure the continuity of pending projects and the transfer of Ms. Sandkulla's considerable institutional knowledge to Mr. Smegal.

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: **Resolution Approving the Temporary Appointment of Nicole Sandkulla as Special Counsel to the CEO/GM and Making Findings in Support of the Appointment.**

Summary:

As required by the California Public Employees' Retirement System (CalPERS), Board findings are required before Nicole Sandkulla, soon to retire from BAWSCA, can be appointed to the position of Special Counsel to the Chief Executive Officer and General Manager (CEO/GM) in order to provide BAWSCA with essential services. The responsibilities for this position are described in Exhibit A.

Fiscal Impact:

Sufficient funds to appoint Nicole Sandkulla as Special Counsel to the CEO/GM are estimated to be available in the adopted budget for FY 2024-25. No budget adjustment is needed at this time.

These estimates will be updated and reviewed during the mid-year work plan and budget review.

If the estimate at mid-year indicates that the adopted operating budget will be insufficient through the end of the year, the additional increment of funding will be relatively small and may be available from savings in other areas of the budget or, if necessary, from the General Reserve.

Board Policy Committee Action

The Committee voted unanimously to recommend the proposed Board action.

Recommendation:

That the Board adopt Resolution #2024-04 approving the temporary appointment of Nicole Sandkulla to the position of Special Counsel to the CEO/GM and making associated findings in support of such an appointment.

Discussion:

Although Nicole Sandkulla will soon retire from BAWSCA, her services will continue to be essential in order to effect a smooth transition to her successor, Thomas Smegal, and to provide critical executive strategic advice and counsel services to Mr. Smegal.

The California Government Code allows the temporary employment of a PERS-covered retiree only under specified conditions, and only if the person works no more than 960 hours per fiscal year. The attached resolution includes findings that the Board must adopt in order for the incoming CEO/GM to retain Ms. Sandkulla in this position for no longer than twenty four months in compliance with all legal requirements. Ms. Sandkulla's hourly pay will be \$165.46, which is consistent with the salary range for the CEO/GM position, which is the position that is most closely related to the duties that Ms. Sandkulla will be performing. Consistent with state law, Ms. Sandkulla has not and will not receive any other benefit, incentive, compensation in lieu of benefit or other form of compensation in addition to her hourly pay rate.

Attachments:

1. Exhibit A, Responsibilities of Special Counsel to the CEO/GM.
2. Resolution #2024-04 Approving the Temporary Appointment of Nicole Sandkulla as Special Counsel to the CEO/GM and Making Findings in Support of the Appointment.

EXHIBIT A

BAWSCA

Special Counsel to the Chief Executive Officer and General Manager

RESPONSIBILITIES

The part-time position of Special Counsel to the CEO/GM will report to Thomas Smegal.

The Special Counsel to the CEO/GM will assist the CEO/GM in the following areas:

1. Transition to BAWSCA's incoming CEO/GM, Thomas Smegal; and
2. Provide executive strategic advice and counsel to Mr. Smegal.

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**RESOLUTION NO. 2024-04
BY THE BOARD OF DIRECTORS OF THE
BAY AREA WATER SUPPLY AND CONSERVATION AGENCY**

**APPROVING TEMPORARY APPOINTMENT OF NICOLE SANDKULLA
AS SPECIAL COUNSEL TO THE CEO/GM AND MAKING FINDINGS IN SUPPORT OF THE
APPOINTMENT**

WHEREAS, the Bay Area Water Supply and Conservation Agency ("BAWSCA") is organized and established pursuant to the Bay Area Water Supply and Conservation Agency Act, Water Code section 81300, et seq. (the "Act");

WHEREAS, section 81408 of the Act authorizes the Board of Directors of BAWSCA (the "Board") to (i) employ employees that it determines are necessary or convenient to operate BAWSCA, and (ii) delegate that authority to the Chief Executive Officer and General Manager of BAWSCA (the "CEO/GM") with respect to the employment of additional employees;

WHEREAS, the incoming CEO/GM, Thomas Smegal, would benefit from the temporary appointment of Nicole Sandkulla (the "Appointee") to the position of Special Counsel to the CEO/GM; and

WHEREAS, the Appointee will be a retired annuitant entitled to receive retirement benefit payments under the California Public Employees' Retirement System ("PERS"), which benefits she accrued based on service with multiple PERS-covered agencies;

WHEREAS, BAWSCA contracts with PERS to provide retirement benefits to its eligible employees;

WHEREAS, the Appointee will be performing similar duties to those duties performed by individuals who have held or are currently holding the position of CEO/GM;

WHEREAS, the California Government Code ("Code") generally requires that a retired PERS annuitant be reinstated to active PERS membership upon employment by a PERS-covered agency, unless she is temporarily appointed by the agency's appointing authority under sections 7522.56 and 21224 of the Code, which exempt a retired PERS annuitant from the reinstatement requirement if (i) she is temporarily appointed because she ". . . has specialized skills needed in performing work of limited duration," (ii) she works no more than 960 hours per fiscal year for all PERS-covered employers, (iii) her hourly rate of pay is neither less than nor more than the monthly base salary paid by the agency to any of its other employees who perform comparable duties, divided by 173.333, as reflected in the publicly-available salary schedule , (iv) she will not receive any other benefit, incentive, compensation in lieu of benefits, or other form of compensation in excess of such hourly rate, (v) she is not reemployed within 180 days of her retirement, unless she did not receive any incentive to retire, and the appointment is certified by the agency as necessary to fill a critically-needed position before 180 days has passed and approved by the employer's governing body at a public meeting, and (vi) she has not received unemployment compensation arising out of any prior employment subject to these requirements with the same employer during the 12-month period preceding her appointment;

WHEREAS, Code section 7522.56 also permits a retired PERS annuitant to be employed within 180 days following the date of retirement, if, among other criteria, she (i) fills a "critically needed position before 180 days have passed" and (ii) the appointment has been "approved by the governing body of the employer in a public meeting;"

WHEREAS, the Board has determined that BAWSCA has a critical need and that the appointment of the Appointee is necessary to fill this critical need;

WHEREAS, the Board has also determined that the Appointee has the skills needed in performing work as Special Counsel to the CEO/GM for a limited term of no more than twenty-four months and intends that her appointment to that position for such term meet this and all other applicable requirements of sections 7522.56 and 21224 of the Code;

WHEREAS, the hourly pay rate to Appointee will be \$165.46; and

WHEREAS, Appointee has not and will not receive any other benefit, incentive, compensation in lieu of benefit or other form of compensation in addition to the hourly pay rate stated above.

NOW THEREFORE BE IT RESOLVED, that subject to BAWSCA's customary employment practices and the specific terms and conditions of any offer of employment by BAWSCA to the Appointee in connection therewith, the Board hereby approves the appointment of the Appointee to the position of Special Counsel to the CEO/GM for up to one twenty-four month term, effective upon appropriate action by the incoming CEO/GM; and

RESOLVED FURTHER, that in accordance with sections 7522.56 and 21224 of the Code:

1. The Board finds that BAWSCA has a critical need to fill the position of Special Counsel to the CEO/GM;
2. The Board finds and declares that the Appointee possesses extensive, highly specialized skills and experience needed to effect a smooth transition to her successor Thomas Smegal and to provide critical executive strategic advice and counsel to Mr. Smegal, and due to the immediacy of these needs for such skills and experience, the Appointee's services are needed to fill this critically-needed position before 180 days have passed since her retirement upon which she did not accept any incentive to retire;
3. The Appointee's appointment to the position of Special Counsel to the CEO/GM will not exceed 960 hours in any fiscal year for all PERS-covered agencies;
4. The Appointee's hourly rate of pay as Special Counsel to the CEO/GM will be neither less than nor more than the base monthly salary of any of BAWSCA's other employees who perform comparable duties divided by 173.333, as reflected in the attached salary schedule for the CEO/GM position (Attachment A), which is hereby adopted by the Board, and she will not receive any other benefit, incentive, compensation in lieu of benefits, or other form of compensation in excess of such hourly rate;
5. The Appointee has not received any unemployment compensation arising out of her prior employment with BAWSCA during the 12-month period preceding her appointment; and
6. Subject to BAWSCA's customary employment practices, including "at-will" employment, the appointment of Appointee as Special Counsel to the CEO/GM will continue only until the earlier of: (i) the end of the appointment's twenty-four month term, or (ii) termination of the Appointee's employment by either BAWSCA or the Appointee for any other reason.

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RESOLVED FURTHER, that the incoming CEO/GM, Thomas Smegal is hereby authorized and directed to execute all documents and take all other actions necessary or advisable to effect the purposes of this resolution.

PASSED AND ADOPTED this 21st day of November, 2024, by the following vote:

AYES:

NOES:

ABSENT:

Chair, Board of Directors
Bay Area Water Supply and
Conservation Agency

ATTEST:

Assistant to the CEO

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BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

BOARD OF DIRECTORS MEETING

Agenda Title: **Approval and Adoption of BAWSCA Retroactive Pay Schedules for FY 2020-21 through FY 2024-25.**

Summary:

As a participating agency in the California Public Employees' Retirement System (CalPERS) and to comply with California Code Regulations (CCR) Title 2 § 570.5 - "Requirement for a Publicly Available Pay Schedule," the Board must approve and adopt the retroactive and current fiscal year pay schedules for BAWSCA staff, provided in Attachment A. These retroactive pay schedules reflect pay as approved and adopted by the Board as part of its regular adoption of the annual Work Plan and Budget. For future fiscal years, approval and adoption of updated pay schedules will be included as part of the Board's regular consideration of the annual Work Plan and Budget and following action on the CEO/GM salary. This action is not authorizing retroactive pay for agency employees, but rather formally approving and adopting previously approved and adopted salary schedules in a specified format as required by CalPERS.

Board Policy Committee Action

The Committee voted unanimously to recommend the proposed Board action, however the format of the Pay Schedules have been revised based on CalPERS' direction.

Recommendation:

That the Board approve and adopt the BAWSCA Retroactive Pay Schedules for FY 2020-21 through FY 2024-25.

Discussion:

BAWSCA is a participating agency in CalPERS. CalPERS requires that BAWSCA's employees' reportable compensation, which is the compensation that employees' retirement benefits are based on, comply with the California Public Employee's Retirement Law ("PERL") and its regulations, including CCR Title 2 § 570.5 - Requirement for a Publicly Available Pay Schedule. During a recent review, CalPERS informed BAWSCA that the Board needed to approve and adopt retroactive pay schedules for the preceding four fiscal years, in addition to the current fiscal year. This CalPERS review was initiated due to the anticipated retirement of the CEO/GM.

This action is not authorizing retroactive pay for agency employees, but rather formally approving and adopting previously approved salary schedules in a specified format as required by CalPERS.

In order to comply with PERL and Title 2 CCR § 570.5, the Board must approve and adopt the BAWSCA pay schedules for FY 2020-21 through FY 2024-25.

The CEO/GM informed CalPERS of her intended retirement in June 2024 and staff and legal counsel have been diligently working to resolve issues raised by CalPERS. Through this effort, CalPERS informed the CEO/GM and legal counsel of the need to take the proposed action to fully comply with PERL and Title 2 CCR § 570.5 in advance of the CEO/GM's retirement date.

The Pay Schedules have been revised from when presented to the Board Policy Committee to address formatting advice from CalPERS. There are two (2) Pay Schedules for each fiscal year reflecting the pay schedules in effect on July 1, the beginning of each fiscal year, and the updated pay schedules as of September 30, reflecting the CEO/GM compensation adjustments authorized and approved by the Board.

Following the Board's action, the approved and adopted Pay Schedules will be posted on BAWSCA's publicly accessible website and formally transmitted to CalPERS.

Attachments:

1. BAWSCA Retroactive Pay Schedules FY 2020-21 through FY 2024-25.



This document has been prepared for the specific purposes of compliance with California Code of Regulations (CCR) 570.5 and was last approved and adopted by the Board of Directors on November 21, 2024

Salary Schedule Effective July 1, 2020

Classification	Annual Minimum	Annual Maximum
Chief Executive Officer / General Manager	\$179,755	\$270,000
Finance Manager	\$148,066	\$185,082
Water Resources Manager	\$169,248	\$211,560
Senior Water Resources Specialist	\$130,971	\$163,714
Water Resources Specialist	\$100,380	\$125,474
Assistant to the CEO	\$94,728	\$118,410
Office Manager	\$100,541	\$125,676
Office Assistant	\$62,093	\$77,619



This document has been prepared for the specific purposes of compliance with California Code of Regulations (CCR) 570.5 and was last approved and adopted by the Board of Directors on November 21, 2024

Salary Schedule Effective September 30, 2020

Classification	Annual Minimum	Annual Maximum
Chief Executive Officer / General Manager	\$179,755	\$285,000
Finance Manager	\$148,066	\$185,082
Water Resources Manager	\$169,248	\$211,560
Senior Water Resources Specialist	\$130,971	\$163,714
Water Resources Specialist	\$100,380	\$125,474
Assistant to the CEO	\$94,728	\$118,410
Office Manager	\$100,541	\$125,676
Office Assistant	\$62,093	\$77,619



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Salary Schedule Effective July 1, 2021

Classification	Annual Minimum	Annual Maximum
Chief Executive Officer / General Manager	\$179,755	\$285,000
Finance Manager	\$151,249	\$189,061
Water Resources Manager	\$172,887	\$216,108
Senior Water Resources Specialist	\$133,787	\$167,234
Water Resources Specialist	\$102,538	\$128,172
Assistant to the CEO	\$108,449	\$135,624
Office Manager	\$104,911	\$131,138
Office Assistant	\$63,428	\$79,285



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Salary Schedule Effective September 30, 2021

Classification	Annual Minimum	Annual Maximum
Chief Executive Officer / General Manager	\$179,755	\$297,675
Finance Manager	\$151,249	\$189,061
Water Resources Manager	\$172,887	\$216,108
Senior Water Resources Specialist	\$133,787	\$167,234
Water Resources Specialist	\$102,538	\$128,172
Assistant to the CEO	\$108,449	\$135,624
Office Manager	\$104,911	\$131,138
Office Assistant	\$63,428	\$79,285



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Salary Schedule Effective July 1, 2022

Classification	Annual Minimum	Annual Maximum
Chief Executive Officer / General Manager	\$179,755	\$297,675
Finance Manager	\$159,598	\$199,497
Water Resources Manager	\$182,430	\$228,037
Senior Water Resources Specialist	\$141,172	\$176,465
Water Resources Specialist	\$108,198	\$135,427
Assistant to the CEO	\$114,490	\$143,112
Office Manager	\$108,371	\$135,464
Office Assistant	\$66,929	\$83,661



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Salary Schedule Effective September 30, 2022

Classification	Annual Minimum	Annual Maximum
Chief Executive Officer / General Manager	\$179,755	\$318,512
Finance Manager	\$159,598	\$199,497
Water Resources Manager	\$182,430	\$228,037
Senior Water Resources Specialist	\$141,172	\$176,465
Water Resources Specialist	\$108,198	\$135,427
Assistant to the CEO	\$114,490	\$143,112
Office Manager	\$108,371	\$135,464
Office Assistant	\$66,929	\$83,661



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Salary Schedule Effective July 1, 2023

Classification	Annual Minimum	Annual Maximum
Chief Executive Officer / General Manager	\$179,755	\$318,512
Finance Manager	\$171,997	\$214,996
Water Resources Manager	\$192,976	\$241,220
Senior Water Resources Specialist	\$149,771	\$187,214
Water Resources Specialist	\$121,924	\$152,405
Assistant to the CEO	\$121,228	\$151,535
Office Manager	\$115,430	\$144,287
Office Assistant	\$74,790	\$93,487



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Salary Schedule Effective September 30, 2023

Classification	Annual Minimum	Annual Maximum
Chief Executive Officer / General Manager	\$179,755	\$333,259
Finance Manager	\$171,997	\$214,996
Water Resources Manager	\$192,976	\$241,220
Senior Water Resources Specialist	\$149,771	\$187,214
Water Resources Specialist	\$121,924	\$152,405
Assistant to the CEO	\$121,228	\$151,535
Office Manager	\$115,430	\$144,287
Office Assistant	\$74,790	\$93,487



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Salary Schedule Effective July 1, 2024

Classification	Annual Minimum	Annual Maximum
Chief Executive Officer / General Manager	\$179,755	\$333,259
Finance Manager	\$176,808	\$221,009
Water Resources Manager	\$198,374	\$247,967
Senior Water Resources Specialist	\$153,960	\$192,450
Water Resources Specialist	\$125,334	\$156,668
Assistant to the CEO	\$124,619	\$155,773
Office Manager	\$118,658	\$148,323
Office Assistant	\$76,881	\$96,102



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Salary Schedule Effective September 30, 2024

Classification	Annual Minimum	Annual Maximum
Chief Executive Officer / General Manager	\$179,755	\$344,166
Finance Manager	\$176,808	\$221,009
Water Resources Manager	\$198,374	\$247,967
Senior Water Resources Specialist	\$153,960	\$192,450
Water Resources Specialist	\$125,334	\$156,668
Assistant to the CEO	\$124,619	\$155,773
Office Manager	\$118,658	\$148,323
Office Assistant	\$76,881	\$96,102