



**REQUEST FOR PROPOSALS:**

**BAWSCA's Water Conservation Database Redesign and Implementation**

**SUBMITTALS DUE:**

By 5pm – June 10, 2022

**INTERVIEW DATE (IF NEEDED):**

June 21, 2022

**RETURN TO:**

Bay Area Water Supply & Conservation Agency

155 Bovet Road, Suite 650

San Mateo, CA 94402

(650) 349-3000

Attn: Kyle Ramey | [kramey@bawsca.org](mailto:kramey@bawsca.org)

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**NOTE: IT IS THE PROPOSER'S RESPONSIBILITY TO EXAMINE  
THIS "REQUEST FOR PROPOSALS" SOLICITATION IN ITS ENTIRETY PRIOR TO SUBMITTING A  
PROPOSAL**

## **1. INTENT OF REQUEST FOR PROPOSALS**

The Bay Area Water Supply and Conservation Agency (BAWSCA) is soliciting proposals from qualified database development service providers to assist in the development of a formal redesign of the BAWSCA Water Conservation Database (WCDB) and implement the redesigned WCDB. The WCDB serves as the repository for BAWSCA member agency water use and water conservation program information. The redesign itself would be performed in FY 2022-23 contingent upon the approval by the BAWSCA Board of Directors of the proposed FY 2022-23 Workplan and Operating Budget. Through the RFP process, BAWSCA seeks to select a Consultant to assist in the redesign effort.

## **2. ABOUT BAWSCA**

BAWSCA provides regional water supply planning, resource development, and conservation program services for the benefit of the 16 cities, 8 water districts, and 2 private water suppliers (Wholesale Customers) that provide water to over 1.85 million residents and thousands of commercial, industrial and institutional customers in Alameda, San Mateo, and Santa Clara Counties. BAWSCA's goals are to ensure a reliable supply of high-quality water at a fair price. BAWSCA is governed by a 26-member Board of Directors.

BAWSCA represents the interests of the Wholesale Customers that purchase water on a wholesale basis from the San Francisco Regional Water System (RWS), which is owned and operated by the San Francisco Public Utilities Commission (SFPUC). BAWSCA provides the ability for the customers of the RWS to work with SFPUC on an equal basis to ensure that the water system is fixed and maintained.

## **3. PROJECT BACKGROUND**

BAWSCA's current WCDB was launched in October 2010 and was last updated in FY 2016-17. The WCDB is used to collect data in a consistent format for three specific efforts: (1) conservation activity reporting, (2) BAWSCA Annual Survey reporting on water use and demographic data and (3) DSS (Demand Support System) modeling and demand projections support. The WCDB is designed to facilitate data collection, provide data monitoring, and compile data for reporting.

The two types of users of the WCDB are member agency users and BAWSCA staff users. Agency users belong to one of the 27 BAWSCA member agencies (24 agencies and 3 Cal Water districts) and they use the system to manage, analyze and report on their respective conservation measure and water use data. Agency users:

- Select conservation measures to implement and choose agency targets for a given fiscal year;
- Enter conservation measure data and track progress for each measure selected;
- Enter agency profile and water usage data;
- View performance against goals; and
- Export measure data for further processing for agency reports.

BAWSCA users synthesize and analyze agency specific data as well as regional measure data. BAWSCA users also monitor overall progress on measure reporting. BAWSCA users:

- Create a global list of conservation measures each year to initiate tracking for the fiscal year;
- View each agency's status and progress on measure data entry;
- Track BAWSCA regional measures;
- Export measure data for all agencies to support the BAWSCA Annual Survey and other analyses; and
- Reconfigure or expand measure forms as needed.

There are two types of main pages in the WCDB that provide content: (1) the WCDB Home, which is available to all users and provides general purpose content, and (2) Agency Home Pages, which are unique to each individual agency and enable agency data reporting and exports.

The current WCDB is a custom platform with a high level of customization. The WCDB redesign is needed for various reasons. Since 2016, data availability has changed with implementation of AMI (Advanced Metering Infrastructure), development of new conservation programs with different metrics than traditional rebate programs, and implementation of new State reporting requirements. Additionally, the State has taken steps to streamline data reporting and access which may facilitate standardization of data formats between the WCDB and other sources. BAWSCA is also considering updates to the Tier 2 Drought Allocation Plan which may require use of newly available data not currently collected through BAWSCA's reporting. Lastly, BAWSCA desires to maintain and utilize the best available data to support planning efforts such as demand forecasting, conservation planning, and water supply planning.

As part of the development of the redesign, BAWSCA envisions that the consultant will assist BAWSCA in identification of objectives that should be met as part of the redesign by gathering information from BAWSCA member agencies. These objectives are anticipated to include (refer to Task 4 for additional details):

- Enhancing the features of the existing WCDB.
- Providing a reliable, user-friendly interface for BAWSCA member agencies to input their water use and conservation data.
- Enabling a simple export of data to MS Excel in formats necessary for completion of BAWSCA's work plan, including but not limited to:
  - BAWSCA Annual Survey
  - BAWSCA Annual Water Conservation Report, and
  - Decision Support System Model.
- Facilitating the import of water use and conservation data from MS Excel file templates to WCDB.
- Facilitating data for State Board reporting in accordance with SB 606 / AB 1668.
- Utilizing a platform that provides a simple process for future modifications to the database, including addition of new reporting fields and data export formats.

The BAWSCA Board is anticipated to provide budget authorization for this project at the May 19, 2022, Board of Directors meeting as part of the FY 2022-23 BAWSCA Budget and Work Plan adoption. Following the consultant selection process and based on the Board's action in May, BAWSCA will enter into a contract with the recommended consultant. BAWSCA anticipates that work will begin at the start of FY 2022-23.

#### **4. PROJECT DESCRIPTION**

BAWSCA seeks to select a firm (Consultant) to assist BAWSCA in developing a new Water Conservation Database. BAWSCA anticipates that the work will be completed by the close of FY 2022-23 (June 30, 2023).

The work is expected to include the following tasks:

##### **Task 1 – Project Management**

Consultant will provide administrative services to oversee the day-to-day implementation of the Project. To keep the work on schedule and budget, Consultant must provide BAWSCA with monthly status and budget updates by task. This monthly status and budget update information must be shared via email that includes, as an attachment, a cover letter summarizing the work effort in combination with updated Excel spreadsheets detailing budget and schedule status.

Consultant will periodically meet with the BAWSCA project manager and management, either via phone or in person, to discuss Project goals, progress, and outcomes.

##### **Task 2 – Review Existing WCDB**

The selected Consultant will review the existing WCDB. The purpose of that review will be to gain an understanding of how the WCDB is used to support the needs and interests of BAWSCA and its member agencies. BAWSCA envisions that the development of the redesign will consider the need to improve the functionality of the existing system, increase efficiency in the user experience, and enable efficient management and future modifications.

WCDB components to review include, but are not limited to:

- Prior WCDB scoping documents
- The existing WCDB training manual
- The existing WCDB system specifications and interface
- The methodology utilized within the existing WCDB that allows for data input and transfer (by both member agency users as well as by BAWSCA staff)
- Misc. reports generated from the WCDB data

In an effort to gain insight into what a redesigned WCDB should incorporate, Consultant will participate in meeting with the BAWSCA Water Resources Committee, which is comprised of representatives from each of the BAWSCA member agencies,

Examples of the existing WCDB content and interface are provided in Exhibit B.

##### **Task 3 – WCDB Redesign Scope & Needs Assessment**

Consultant and BAWSCA staff will convene with the Wholesale Customers, specifically the BAWSCA Water Resources Committee, to kick off the scoping process. BAWSCA envisions a kick-off meeting, approximately two (2) hours in length. During the kick-off, there would be a discussion as to what the objectives of the coming WCDB redesign should be. In addition, the Wholesale Customers would be engaged to obtain their feedback on the WCDB's existing functionality and what they may desire as part of a redesign. While that engagement will begin at the kick-off meeting, it is anticipated that such

engagement will continue as follow-up activities. Those activities may include phone conversations, virtual one-on-one meetings with BAWSCA and its member agencies, or email exchanges.

Once the scope and needs assessment has been completed, there will be an additional two (2) hour meeting with BAWSCA and the member agencies to present the findings of the assessment and introduce the project implementation plan.

For proposal purposes, the Consultant should assume that the Wholesale Customer meeting would be held in person, yet the fallback option of virtual meetings may be necessary due to COVID-19 considerations. BAWSCA is responsible for room reservations and meeting set-up.

The purpose of this Task is to develop a shared vision for the future WCDB by collaboratively reviewing the data and functionality of the existing database, collecting information on desired enhancements and functionality changes, and identifying additional data sources and resources to be included in the future WCDB.

This Task will include the following activities:

- Hold visioning session with member agency designees to collectively set-the-stage for the outcome of the WCDB;
- Review the current BAWSCA database data fields;
- Review other data entry requirements for BAWSCA agencies;
- Identify redundant or similar requirements;
- Review current data utilization from WCDB for BAWSCA activities such as Annual Survey, Conservation Report, and DSS model updates;
- Review of data needs for planned or anticipated BAWSCA efforts (Tier 2 Plan, enhanced demand modeling, support for urban water use objectives) and data availability to meet these data needs; and
- Collect requirements for user interface design preferences, visualization, and reporting formats.

The above activities will be completed in collaboration with BAWSCA, and the outcome will include a technical memo on user requirements and preferences. The specific functionality to be included in the WCDB will be determined based on meeting the high priority and “must have” features and data identified in the user requirements document along with BAWSCA’s allocated budget for the project.

### Task 3 Deliverables

- One (1) kick-off meeting, approximately two (2) hours in length, with BAWSCA member agencies to introduce the project, gather information from the agencies, and determine specific functionalities to be included in the WCDB development.
  - Preparation of meeting materials including handouts, PowerPoint slides, a meeting agenda, etc.
- WCDB Redesign scope and needs assessment Technical Memorandum (TM) – note that a draft TM will be produced for review by BAWSCA, and a Final TM produced incorporating BAWSCA comments.
- One (1) meeting, approximately two (2) hours, with BAWSCA member agencies to present the TM contents and the plans for the redesign.
  - Preparation of meeting materials including handouts, PowerPoint slides, a meeting agenda, etc.

#### **Task 4 – Develop WCDB**

The purpose of this Task is to develop the enhanced WCDB based on the outcomes and needs identified in Tasks 2-3 to improve functionality and meet both current and planned uses. To increase efficiency and flexibility, an existing platform (such as MS Sharepoint or alternative platform) will be utilized for the basic framework of the WCDB. The proposed platform must include comprehensive user management, administrative functionalities and reporting capabilities that can be easily configured to meet BAWSCA's multi-user needs.

The WCDB will be configured to address the needs identified in Tasks 2-3 to improve usability for BAWSCA and member agencies and to streamline key reporting tasks. The additional functionality included in the WCDB (beyond current database capabilities) are anticipated to include, but are not limited to:

- Enable QA/QC of data within database as well as notifications to BAWSCA and agencies as data review moves through various steps (data entry, agency review, BAWSCA review, final) with built-in QA/QC protocols to support data review.
- Automatically generate key tables, figures, and data visualization for BAWSCA annual survey and conservation report in preferred format.
- Automatically update infographics and agency profiles on BAWSCA website once data has been finalized.
- GIS integration to support mapping of key service area information for website and report use.
- Enable import of external data sources to streamline data entry for BAWSCA agencies and improve consistency.
- Enable multiple levels of user access for BAWSCA staff and member agency personnel.
- Integrate with Droplet Portal for import of summary-level conservation program information into the WCDB for each agency.
- Enable import of Santa Clara Valley Water District conservation reports to streamline data entry for Valley Water common customers.
- Customize export formats to support ongoing and planned BAWSCA and agency needs for WCDB data.
- Enable desired unit conversions where applicable.
- Allow multiple types of data and file imports (excel, word, adobe, etc.)
- Ability to compare historical data with annual survey agency data submittals.
- Enable multiple project tracking with percentage-based competition analytics and automatic deadline reminders to multiple users.
- Provide basic content management capabilities for administrators.
- Ability to export data for reporting purposes (AB 1668 & SB 606 water use reporting requirements).

#### **Task 4 Deliverables**

- One (1) meeting, approximately two (2) hours, with BAWSCA member agencies presenting the first technical demonstration of the redesigned WCDB.
  - Preparation of meeting materials including handouts, PowerPoint slides, a meeting agenda, etc.
- Present second rendition of the redesigned WCDB to BAWSCA for final input on structure, functionalities, and design.
- Finalized Water Conservation Database and accompanying user guide. A draft version of the user guide will be provided to BAWSCA for review, and a final version of the guide will be produced incorporating BAWSCA comments.

## **Task 5 – User Training**

Consultant will conduct a training session for the BAWSCA member agencies and BAWSCA staff. Training will be held via webinar, on two separate dates to facilitate member agency participation. Consultant will also incorporate key sections of the newly designed WCDB User Training Guide into the training session.

The Consultant should assume that three BAWSCA staff members and two staff members from each of BAWSCA's member agencies will require database training.

### **Task 5 Deliverables**

- One (1) training, approximately two (2) hours, with BAWSCA member agencies to walk through the newly redesigned database and field questions.
  - Preparation of meeting and training materials including handouts, PowerPoint slides, and an agenda, as well as performing demonstrations.

## **Task 6 – Ongoing Technical Support**

While the level of technical support that will be needed following the completion and implementation of a redesigned database is uncertain, BAWSCA believes that some ongoing technical support will be required. Technical support may include, but is not limited to, ongoing maintenance, refinement, support to end users (BAWSCA and member agencies) on technical questions on the usage of the WCDB, implementing bug fixes, or addressing other requested changes or enhancements. As part of a response to this RFP, proposers must describe the ongoing support processes, procedures, and methods they envision would be employed for the proposed database. The description should identify hours of supports, methods to access support, after-hours support, and response time commitments. Any associated customer support fees should also be identified in the Cost Proposal Form.

## **Task 7 – Warranty**

At a minimum, the proposer must provide a one (1) year warranty for the WCDB commencing on Final Acceptance by BAWSCA. During the warranty period, Consultant warrants that the Redesigned WCDB, when used in accordance with the instructions in the user's manual or subsequent training documentation, shall operate as described in all material respects. Consultant shall, at its own expense and as its sole obligation remedy for any breach of this warranty, (a) correct any reproducible error in the WCDB reported to the Consultant in writing during the Warranty Period, or (b) if Consultant determines that it is unable to correct the error or replace the WCDB, Consultant shall refund to BAWSCA all License Fees and Support Service Fees actually paid for the defective WCDB, in which case this Agreement and BAWSCA's right to use the Software shall terminate.

## **5. PROJECT SCHEDULE**

BAWSCA anticipates commencing work in July 2022. Work will be contracted on a fiscal year basis and be completed by June 30, 2023. Proposals must include a detailed schedule demonstrating Consultant's proposed approach for completing each task. An estimated schedule is provided in Table A.



**Table A: Project Schedule**

<b>Date</b>	<b>Milestone</b>
<i>Assessment Phase</i>	
July 2022	Work commences
August 2022	Kick off meeting with member agencies to discuss WCDB update
September 2022	Develop Scope of Work for WCDB Redesign
October 2022	Completion of Scope of Work and Tech Memo
<i>Development Phase</i>	
November 2022	Begin work on WCDB redesign
February 2023	First rendition of WCDB build and review
April 2023	Second review of WCDB build. Finalize structure and functionalities.
May 2023	Testing, training, and final data conversion.
<i>Implementation Phase</i>	
June 2023	WCDB Launch
August 2023	Final Acceptance by BAWSCA & Warranty period commences.

All dates are subject to change at the sole discretion of BAWSCA.

## **6. REQUIRED PROPOSAL FORMAT**

The response to this RFP may be in a letter format. There is no page limitation, but proposers are encouraged to be succinct. Proposers should only include information that is essential to understand and evaluate proposals. Items not specifically and explicitly related to the RFP and proposal (e.g. brochures, marketing material, etc.) will not be considered in the evaluation. Please submit all requested information, documents, insurance certificates, and applicable licenses with your proposal. Proposers must have a business license, proof of insurance, and key staff assigned to the project and identified in their proposal with substantial experience in water use efficiency program planning and evaluation.

Proposals shall include the following components, labeled and ordered exactly as listed below:

A. Project Understanding

Proposals shall provide a brief description of the Consultant's understanding of the Project, including (1) Consultant's perspective on the key elements of the WCDB, and (2) Consultant's approach to develop the WCDB in a thorough and resource-efficient manner.

B. Company Background

Proposals shall identify the prime Consultant and any subcontractors proposed to be used. Proposals shall include a description of the company's organization, number of years in business, and relevant experience. Proposals shall provide names and biographies of key team members that will be committed to the Project. Please include information on key team members' experience in database planning and evaluation. Proposals shall include a project organization chart (1) identifying the key staff who will be assigned to the Project and (2) illustrating the lines of authority and the individual responsible for the completion of each service component and deliverable.

C. Qualifications

Proposals shall include descriptions of similar projects completed and/or experiences and/or qualifications related to this Project completed or undergoing within the last five

years. Proposals shall include at least (3) references for key personnel and the project team from projects completed within the past five years that were a similar size and scope to this Project. For each reference, proposals shall include a contact name with current phone number and email address and a description of the services performed for each reference.

D. Implementation Plan /Scope of Work

Proposals shall describe the methodology and approach for completing the Project as described in Section 4. Proposals shall describe the roles and responsibilities of BAWSCA, the Consultant, and the Wholesale Customers during each phase of implementation. Proposal shall include a detailed schedule for completion of all tasks.

Hosting Requirements:

Describe the minimum hosting requirements envisioned as needed for the new database. Describe the web hosting and hosting maintenance services offered by your company, if any, and associated fees. Describe data security, data privacy, and backup and disaster recovery processes and procedures.

Ongoing Customer Support:

Describe ongoing support processes, procedures, and methods. At a minimum, the description should identify hours of support, methods to access support, after-hours support, and response time commitments. Any associated customer support fees should be described in Section F.

Training:

Describe how and where you propose to train BAWSCA staff and BAWSCA member agencies to manage and update the WCDB. Provide an estimate for the number of staff training hours required to train three BAWSCA staff members and 2 staff members from each of BAWSCA's member agencies.

Database Platform:

BAWSCA's existing WCDB is a MS Sharepoint 2003 website. If your company recommends an alternate platform, please describe the recommended alternative and any associated software, licensing or purchase fees and contract terms.

E. Budget and Payment Schedule

Provide a proposed budget and payment schedule, including preferred milestone amounts and dates, for the project. The budget should be consistent with the Cost Proposal Form submitted with the proposal. The payment schedule shall categorize milestones into three categories, consistent with the schedule in Table A: Assessment Phase, Development Phase, and Implementation Phase. The milestone payment schedule shall include the following milestones as the last two milestones in the schedule: (1) Final Acceptance and (2) Warranty, with corresponding percentage payments. At a minimum, 10% of total compensation shall be due upon Final Acceptance of the project and 5% of total compensation shall be due upon expiration of the warranty period. With the final percentage payment upon the expiration of the warranty period, 100% of total compensation will have been remitted to the Consultant.

F. Cost Proposal Form – Exhibit D

Submit a completed Cost Proposal Form included as Exhibit D, Tasks 1-7 in the Cost Proposal Form. Please refer to the tasks listed in Section 4 of the RFP; when completing the Cost Proposal Form. The "Total Cost" (for one-time and on-going annual costs) must be inclusive of all labor, materials, taxes, profit, overhead, insurance, subconsultant costs and all other costs and expenses incurred by the proposer.

For Task 6, please use the "Comments" section of the Cost Proposal Form (attach additional sheets as necessary) to list and describe in detail the services, and all applicable terms and conditions, that are included in the proposed cost for "Ongoing Technical Support." If there are optional technical support services that are offered at an additional cost, please list and describe them on a separate page in the proposal.

For the last Cost Category, "Other Fee(s)," please include the total cost of all other fees as either a "one-time cost" or "on-going annual cost," and include a detailed cost breakdown in the "Comments" section of the Cost Proposal Form.

If Proposer requires compensation for certain cost categories at intervals other than annually, please provide the annualized cost and note the preferred payment interval and amount in the "Comments" section of the Cost Proposal Form.

For any item in the Cost Proposal Form that the Consultant will not provide, please write "N/A" and provide a written explanation in the "Comments" section of the Cost Proposal Form.

G. Exceptions to RFP & Standard Agreement

In accordance with Section 15, proposals shall provide a statement that Proposer is prepared to sign the standard Agreement without alterations or exceptions or whether it is requesting modifications to the standard Agreement and/or any requirements of this RFP. A copy of the BAWSCA standard Agreement is attached as Exhibit A. Any exception taken to the RFP requirements or standard Agreement must be clearly identified and described. Failure to specify any exceptions or objection to the requirements, and terms and conditions of this RFP will constitute acceptance of BAWSCA's requirements.

H. Levine Act Statement

California Government Code Section 84308, commonly referred to as the "Levine Act," prohibits any BAWSCA Board Member from participating in any action related to a contract if he or she receives any political contributions totaling more than \$250 within the previous twelve months, and for three months following the date a final decision concerning the contract has been made, from the person or company awarded the contract. The Levine Act also requires a member of the BAWSCA Board who has received such a contribution to disclose the contribution on the record of the proceeding. Proposers must complete Exhibit C, California Levine Act Statement, and submit it with their proposal.

## 7. PROPOSAL INSTRUCTIONS AND SUBMITTAL INFORMATION

Questions regarding the required services, the contents of the proposal, the selection procedures, or any other requirements in this RFP should be submitted in writing no later than May 31, 2022 by 5:00 p.m., Pacific Standard Time. Questions should be directed to Kyle Ramey, Water Resources Specialist, by e-mail at [kramey@bawsca.org](mailto:kramey@bawsca.org). BAWSCA's reply to questions and/or requests for

clarification will be provided by June 3, 2022 to all firms that received the RFP package and will be posted to the BAWSCA website.

Hard copy proposals and an electronic copy must be received by BAWSCA via mail or in person by 5:00 pm, June 10, 2022. *Late proposals will be returned unopened. Proposals received after this deadline, but postmarked prior to the deadline will not be accepted.*

1. All proposals must be responsive to the instructions of this RFP. Proposals that do not meet all RFP requirements and instructions may be rejected at the sole discretion of BAWSCA.
2. Complete the detailed proposal as described in Section 7. The content of the proposals should be ordered and numbered as listed in Section 7.
3. Submit three identical copies of the detailed proposal, as well as one searchable electronic copy. The electronic copy of the proposal may be provided on a USB drive or e-mailed to [kramey@bawasca.org](mailto:kramey@bawasca.org). *Submittal of the electronic proposal does not substitute for the hard copy proposals. Both hard copy proposals and an electronic copy must be received by the proposal deadline of 5:00 pm on June 10, 2022.*

Please send proposals to:

Bay Area Water Supply & Conservation Agency  
Attention: Kyle Ramey, Water Resources Specialist  
155 Bovet Road, Suite 650  
San Mateo, CA 94402

All proposals will become the property of BAWSCA. Refer to Section 13, Confidentiality.

## **8. EX-PARTE COMMUNICATIONS**

Proposers and Proposers' representatives may not communicate with BAWSCA's Board Members except in writing and/or unless the communication is made public. Proposers and Proposers' representatives must communicate in the manner set forth in this RFP. There shall be no communication with any officer, director, employee, or agent of BAWSCA, except as may be reasonably necessary to carry out the procedures specified in this RFP.

Nothing herein prohibits Proposers and their representatives from making oral statements or presentations in public to one or more representatives of BAWSCA during a public meeting.

## **9. ADDENDA TO RFP**

BAWSCA reserves the right to amend this RFP at any time. Any amendments to or interpretations of the RFP shall be described in written addenda. Each prospective Proposer receiving RFP package will be sent a notification of the posting of clarifications. All addenda issued shall become part of the RFP. If BAWSCA determines that the addenda may require significant changes in the preparation of proposals, the deadline for submitting the proposals may be postponed by the number of days that BAWSCA determines will allow Proposers sufficient time to revise their proposals. Any new due date shall be included in the addenda.

## 10. WITHDRAWAL OF PROPOSAL

Submission of a proposal constitutes a firm offer to BAWSCA for one-hundred (100) days from the deadline for submitting proposals. A Proposer may withdraw its proposal before the date proposals are due by submitting a written request to BAWSCA. BAWSCA reserves the right to reject any and all proposals, the right to accept the proposal it considers most favorable to BAWSCA's interests, and the right to waive irregularities in the proposal or proposal process.

## 11. EVALUATION OF PROPOSALS AND SELECTION PROCEDURE

By submitting a Proposal, each Proposer agrees that BAWSCA may consider the Proposer's experience, facilities, delivery abilities, conduct and performance under other contracts, financial condition, reputation in the industry, and other factors which could affect the Proposer's performance under this Agreement. Only Proposers who have demonstrated the ability to meet the requirements of this RFP will be considered for selection. BAWSCA reserves the right to determine the highest qualified Proposer to provide the requested services.

Responses must be prepared and submitted in accordance with the directions specified in Sections 6 and 7. BAWSCA will review proposals and evaluate them based on their relative ranking in each area of the proposal, according to the criteria specified below.

BAWSCA reserves the right to conduct interviews and hold discussions with any individual or qualified firm, but also may award the contract without conducting interviews. If BAWSCA conducts interviews, it will do so only with those Proposers found to be within the "competitive range." BAWSCA requests that Proposers reserve June 21, 2022 for potential interviews.

BAWSCA may request additional information from any Proposer. BAWSCA may also request revised proposals or best and final offers.

The maximum possible total combined score for a proposal is 100 points. Proposals will be evaluated based on the following weighted criteria:

### ***Qualifications and Experience of Firm and Key Personnel (25%)***

Proposals will be evaluated based on the qualifications of the firm and its key personnel as related to the specific tasks in Section 4 and WCDB development. Particular consideration will be given to the qualifications of the Key Personnel that will specifically be assigned to performing the work on this Project. Proposers who have the experience and qualifications to implement similar projects will be rated higher than Proposer who do not have the relevant experience and qualifications. Refer to Section 6, subsections B and C.

### ***Project Understanding, Approach and Scope of Work (25%)***

Proposals will be evaluated based on the Proposer's ability to complete the tasks described in Section 4 and on the overall clarity of the proposal written in the format described in Section 6. Proposals will be evaluated on the proposed approach for accomplishing each task and meeting the overall objective of this Project. Refer to Section 6, subsections A and D.

### ***Ability to Meet Project Timeline (25%)***

Proposals will be evaluated based on the Proposer's demonstrated ability to complete all tasks related to the project within the proposed timeline. Refer to Section 6, subsection D.

**Cost (25%)**

Proposals will be evaluated based on the Proposer's overall value provided within the proposed budget and as further specified in the Cost Proposal Form. Refer to Section 6, subsection E and F.

All proposed costs shall be inclusive of all labor, materials, insurance, overhead, profit, subcontractor costs, warranty, training, taxes, and all other costs to implement the Project (except for optional services.) Refer to Section 6, subsections D, E and F.

**12. BAWSCA RIGHTS**

This RFP does not commit BAWSCA to award an Agreement(s), to pay any costs incurred in the preparation of the proposal for this request, or to procure or contract for services. BAWSCA reserves the right to modify or cancel in whole or in part this RFP, to reject any and all proposals, to accept the proposal it considers most favorable to BAWSCA's interest in its sole discretion, and to waive irregularities or informalities in any proposal or in the proposal procedures. BAWSCA further reserves the right to reject all proposals and seek new proposals when BAWSCA considers such procedure to be in its best interest.

If there is any evidence indicating that two or more Proposers are in collusion to restrict competition or are otherwise engaged in anti-competitive practices, the proposals of all such Proposers shall be rejected, and such evidence may be a cause for disqualification of the participants in any future solicitations undertaken by BAWSCA.

**13. CONFIDENTIALITY**

The California Public Records Act (Cal. Govt. Code § 6250 et seq.) mandates public access to government records. Therefore, unless the information is exempt from disclosure by law, the content of any request for explanation, exception or substitution, response to these specifications, protest or any other written communication between BAWSCA and the Vendor shall be available to the public.

If the Proposer believes any communication contains trade secrets or other proprietary information that the Proposer believes would cause substantial injury to the Proposer's competitive position if disclosed, the Proposer shall request that BAWSCA withhold from disclosure the proprietary information by marking each page containing such proprietary information as confidential. Proposer may not designate its entire proposal as confidential.

If the Proposer requests that BAWSCA withhold from disclosure information identified as confidential, and BAWSCA complies with the Proposer's request, the Proposer shall assume all responsibility for any challenges resulting from the non-disclosure, indemnify and hold harmless BAWSCA from and against all damages (including but not limited to attorneys' fees that may be awarded to the party requesting the Proposer information), and pay any and all costs and expenses related to the withholding of the Proposer information. The Proposer shall not make a claim, sue or maintain any legal action against BAWSCA or its directors, officers, employees or agents in connection with the withholding from disclosure of Proposer information.

If the Proposer does not request that BAWSCA withhold from disclosure information identified as confidential, BAWSCA shall have no obligation to withhold the information from disclosure and may release the information sought without liability to BAWSCA.

#### **14. WAIVER**

By submitting a proposal, the Proposer represents and warrants that it has sufficiently informed itself in all matters affecting the performance of the work requested in this Request for Proposals; that Proposer has checked its proposal for errors and omissions; that the rates stated in its proposal are correct and as intended by it and are a complete and correct statement of its rates for performing the work requested in this Request for Proposals.

The Proposer waives any claim against BAWSCA for costs incurred in preparing a proposal and responding to this RFP.

#### **15. FORM OF AGREEMENT**

The consultant selected by BAWSCA to perform the services as set forth in this RFP will be required to execute an Agreement with BAWSCA. A sample of BAWSCA's standard Agreement is attached as Exhibit A so that potential Proposers have an opportunity to review the terms and conditions of the Agreement. If a Proposer desires any modifications to the terms of Agreement or this Request for Proposals, those requested modifications must be submitted for consideration with the proposal. Otherwise, the Proposer will be deemed to have accepted all the terms and conditions included in the form of Agreement and this Request for Proposals.

## **Exhibit A: BAWSCA Standard Agreement**

**THIS AGREEMENT** is made as of this \_\_\_\_ day of \_\_\_\_ 2022, by and between the Bay Area Water Supply & Conservation Agency (“Agency”) and \_\_\_\_\_ (“Consultant”).

**WHEREAS**, Agency desires to obtain professional services to provide water conservation database redesign and implementation services and has issued a Request for Proposals, dated \_\_\_\_\_, 2022, a copy of which is attached and incorporated as Exhibit A, and

**WHEREAS**, Consultant desires to perform such services and has represented that it is experienced and qualified to perform such services. It submitted a written proposal on \_\_\_\_\_, 2022, which has been negotiated and approved by BAWSCA, a copy of which is attached and incorporated as Exhibit B.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

### **1. SCOPE OF SERVICES**

Consultant will provide Agency the services set forth in Exhibit A, as supplemented by Exhibit B, in accordance with the terms and conditions of this Agreement. Agency may also engage Consultant for additional work as set forth in Section 3 below. In the event of any inconsistency between Exhibit A and Exhibit B, Exhibit A shall control.

### **2. SCHEDULE**

Consultant will commence work upon Agency’s issuance of a Notice to Proceed and, unless the Agreement is terminated sooner pursuant to Section 19, will complete the work by June 30, 2023 in accordance with the mutually agreed upon Schedule included in Exhibit B.

### **3. COMPENSATION**

The Consultant agrees to perform all of the services included in Section 1 for the total all-inclusive not-to-exceed amount of \$\_\_\_\_\_ in accordance with Exhibits A and B. The total all-inclusive sum includes all labor, materials, taxes, profit, overhead, insurance, subconsultant costs, the warranty period commencing upon Agency issuance of Final Acceptance, licensing, hosting, support, maintenance, and all other costs and expenses incurred by the Consultant. The Agency will pay the Consultant in accordance with Section 6.

### **4. MANNER OF PAYMENT**

During the Assessment Phase and the Development Phase, as defined in the payment schedule in Exhibit B, the Consultant must submit invoices to the Agency upon completion of the applicable milestone. Payment will be an agreed upon percentage of the total costs per deliverable during these phases. The Agency will retain a minimum of 15% of total project compensation, which will be released upon issuance of the expiration of the Warranty Period, which will commence upon issuance of the Final Acceptance by the Agency.

The Agency will endeavor to pay approved invoices/billing statements within thirty (30) calendar days of their receipt. The Agency reserves the right to withhold payment to the Consultant if the Agency determines that the quantity or quality of the work performed is unacceptable. The Agency will provide written notice to the Consultant within ten (10) business days of the Agency’s decision not to pay and the reasons for non-payment.



During the Implementation Phase, as defined in the payment schedule in Exhibit B, the Consultant will submit an invoice to the Agency on the last day of each month for the Total Monthly Recurrent Cost incurred in the preceding month with any applicable Uptime Credits deducted from the total. The Agency will within thirty (30) business days notify the Consultant whether it approves the entire invoiced amount or whether it intends on paying a lesser amount due to the failure of the Software to meet the reliability and uptime standards set forth in Attachment A. Agency will only pay the undisputed portion of any invoice. The Agency will endeavor to pay approved invoices within thirty (30) calendar days of their receipt. Agency will only pay the undisputed portion of any invoice.

## **5. CHANGES**

Agency may from time to time make changes to the scope of work by written notice to Consultant. If such changes increase, or decrease, the Consultant's cost of performing the work, or the time required for its completion, an equitable adjustment as mutually agreed will be made to the limit on compensation contained in Section 3, or the Schedule referred to in Section 2, or both. In the event that the Consultant encounters any unanticipated conditions or contingencies that may affect the scope of work or services, schedule, or the amount of compensation specified herein, the Consultant will notify the Agency immediately of such condition or contingency. The Consultant will explain the circumstances giving rise to the unforeseen condition or contingency and will suggest the proposed adjustment in schedule or compensation. Consultant will notify the Agency prior to the time that the Consultant performs work or services related to any proposed adjustment. Any agreed-upon changes will be memorialized in a written amendment to the Agreement.

## **6. CONSULTANT'S STATUS**

Consultant is an independent contractor and not a partner or agent of, nor a joint venture with, Agency. Neither Consultant nor any of Consultant's officers or employees are employees of Agency for any purpose. Consultant will determine the means and methods by which the work is performed; Agency may, however, monitor Consultant's performance.

## **7. ASSIGNMENT**

Consultant may not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of Agency.

## **8. SUBCONSULTANTS**

Consultant may not subcontract any work to be performed under this Agreement without the prior written consent of Agency, except for minor administrative services.

The following subconsultant(s) is(are) approved by Agency for the following task(s):

*[TBD]*

Consultant will be solely responsible for reimbursing any subconsultants and Agency will have no obligations to them.

## **9. KEY PERSONNEL**

A material consideration in Agency's selection of Consultant is the experience and qualifications of the following persons.

[TBD]

The Consultant agrees that these personnel will devote their personal attention to the work, as further described in Exhibit B. Consultant may substitute Key Personnel only with written approval of the Agency, which approval will not be unreasonably withheld. A request for substitution must demonstrate the replacement person's similar qualifications and experience for a position.

## **10. STANDARD OF CARE**

Consultant will exercise the same degree of care, skill and diligence in the performance of the work as would be exercised by a reasonable professional performing similar work in the San Francisco Bay Area under similar circumstances. Consultant will re-perform, at no cost to Agency, services which fail to meet this standard. In the performance of its work, the Consultant represents that it (1) carries all applicable licenses, certificates, and registrations in current and good standing that may be required to perform the work; and (2) will retain all such licenses, certificates, and registrations in active status throughout the duration of this engagement.

## **11. OWNERSHIP OF WORK**

### **A. General**

All reports, designs, drawings, plans, specifications, schedules, and other materials prepared, or in the process of being prepared for the services to be performed by Consultant, will be and are the property of the Agency. The Agency will be entitled to copies and access to these materials during the progress of the work. Any such materials remaining in the hands of the Consultant or in the hands of any subconsultant upon completion or termination of the work will be immediately delivered to the Agency. If any materials are lost, damaged, or destroyed before final delivery to the Agency, the Consultant will replace them at its own expense and the Consultant assumes all risks of loss, damage, or destruction of or to such materials. The Consultant may retain a copy of all material produced under this Agreement for its use in its general business activities.

Any and all rights, title, and interest (including without limitation copyright and any other intellectual-property or proprietary right) to materials prepared under this Agreement are hereby assigned to the Agency. The Consultant agrees to execute any additional documents that may be necessary to evidence such assignment.

The Consultant represents and warrants that all materials prepared under this Agreement are original or developed from materials in the public domain (or both) and that all materials prepared under and services provided under this Agreement do not infringe or violate any copyright, trademark, patent, trade secret, or other intellectual-property or proprietary right of any third party.

### **B. Intellectual Property Provisions. To the extent applicable, the following provisions apply:**

#### **(1) Definitions.**

The term "Consultant Software" means any software reasonably necessary to operate or maintain any portions of the System that is a product or application of Consultant that pre-existed the execution of this Agreement.

The term "Consultant Software Customizations" means any software reasonably necessary to operate or maintain any portions of the System that is a customization, modification, or other change or addition of or to Consultant Software made under this Agreement.

The term “Third Party Software” means any software reasonably necessary to operate or maintain any portions of the System that does not constitute Consultant Software or Consultant Software Customizations.

The term “Materials” means any recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the Agreement—with examples including, but not being limited to: computer software documentation; change logs; engineering drawings; specifications; standards; process sheets; manuals; technical reports; catalog item identifications; and related information—and for clarity, excluding financial, administrative, and cost and pricing information incidental to the work.

(2) Grant of License. The Consultant grants to the Agency a perpetual, unlimited, royalty-free, non-exclusive and irrevocable license for Agency (including without limitation its officers, directors, employees, and agents) to install, use, copy, modify, and maintain the Consultant Software and the Consultant Software Customizations, with no limitation on the number of sites or users.

In providing the System, the Consultant will use only that Third Party Software that has been expressly approved in writing by Agency. Consultant will procure, maintain, and otherwise be responsible for all licenses for Agency, in Agency's name, for any such Third Party Software reasonably necessary to operate or maintain the System. Consultant will provide to Agency copies of such licenses, along with any related software or license documentation.

To the extent that any other licenses or permissions are reasonably desirable or necessary for Agency to operate or maintain the System, Consultant hereby grants to Agency to the maximum extent within its rights—or will procure for Agency, in Agency's name, to the maximum extent reasonably negotiable—any such licenses and permissions.

All rights and licenses granted under or pursuant to this Agreement are and will be deemed to be, for purposes of Section 365(n) of the U.S. Bankruptcy Code, licenses of rights to “intellectual property,” as defined under Section 101 of the U.S. Bankruptcy Code. The parties agree that the Agency, as a licensee of such rights under this Agreement, will retain and may fully exercise all of its rights and elections under the U.S. Bankruptcy Code; however, nothing herein will be deemed to constitute a present exercise of such rights and elections.

(3) Patent and Copyright Warranties. The Consultant represents and warrants that any use of the System (or any portion of the System) by Agency (or its officers, directors, agents, employees, or transit users) will not infringe or violate the patent, copyright, trade-secret, or other intellectual-property or proprietary rights of any third party.

The Consultant further represents and warrants that it has or will have all appropriate licenses, agreements, or ownership rights pertaining to all patent, copyright, trade-secret, or other intellectual-property or proprietary rights needed for the performance of its obligations under this Agreement—including without limitation that it will have all necessary rights to use patentable or copyrightable materials, equipment, devices, or processes not furnished by the Agency used on or incorporated in the work under this Agreement. The Consultant assumes all risks arising from the use of any such patented or copyrighted materials, equipment, devices, or processes.

In case any such software, materials, equipment, devices, processes, or other materials are held to constitute an infringement and their use enjoined, the Consultant, at Consultant's sole cost and expense will: (a) secure for the Agency the right to continue using the materials, equipment, devices or processes by suspension of the injunction or by procuring a royalty-free license, or licenses, or (b) replace such materials, equipment, devices, or processes with non-infringing materials, equipment, devices, or processes, or (c) modify them so that they become non-infringing or remove the enjoined materials, equipment, devices or processes and refund the

sums paid for them without prejudice to any other rights of the Agency. If the amount of time necessary to proceed with one of these options is deemed excessive by the Agency, the Agency may direct the Consultant to select another option or risk default.

(4) Source Code. The Consultant agrees that as a condition of final acceptance, it will deposit the source code for any Consultant Software and Consultant Software Customizations into escrow (including all updates, versions, releases, and upgrades licensed under this Agreement or any related maintenance agreements between Consultant and Agency), with a source code agent capable of providing Level 2 certification/verification. Deposit will be at reasonable periodic intervals based generally on the pace at which the software is being developed or changed and will include any and all subsequent updates, versions, releases, and upgrades licensed under this Agreement or any related maintenance agreements between Consultant and Agency. The source code escrow agreement will remain in place, and source code deposits will be updated and maintained, for as long as the Agency and Consultant have entered into a software maintenance or support agreement. The applicable source code will be released to the Agency (or any contractor acting on its behalf) in the event of Consultant's non-performance or the inability of Consultant to execute or maintain the portion of the System controlled by or through its applicable software. Such conditions of release include, but are not limited to (1) Consultant's bankruptcy, (2) Consultant's cessation of business, or (3) failure of Consultant to support, execute, maintain or provide enhancements in a timely manner to the portion of the System controlled by or through its applicable software. Consultant agrees that the Agency (or any contractor acting on its behalf) may use the source code to maintain, fix, or modify the Consultant Software and the Consultant Software Customizations as reasonably necessary to operate or maintain any portions of the System. Consultant and the Agency will separately document an escrow agreement concurrently with this Agreement. The Consultant will be responsible for any costs related to the escrow.

(5) Patent Rights. If any invention, improvement, or discovery of Consultant is conceived or first actually reduced to practice in the course of or under this Agreement, which invention, improvement, or discovery may be patentable under the Patent Laws of the United States or any foreign country, Consultant will immediately notify Agency and provide a detailed report. The rights and responsibilities of Agency, Consultant with respect to such invention will be determined in accordance with applicable federal laws, regulations, policies and any waivers thereof.

(6) Non-Compete Clauses Waived. In the event that any of the release conditions set forth in any source code escrow agreement between the parties are satisfied and the source code is released to the Agency, the Agency will have the right to hire Consultant's personnel or subcontractors for any reason related to the maintenance and operation of the System. The Consultant will not interfere with any such efforts to hire any of Consultant's personnel. Consultant agreements with personnel and/or subcontractors that restrict employment by the Agency will be waived under such circumstances.

(7) Precedence. In the event of any conflict between the provisions of this Section and the provisions of any separate software license, escrow, or otherwise related agreement, this Section will take precedence.

C. Additional Software Provisions. Refer to Attachment A, appended hereto, for additional requirements.

## **12. CONFIDENTIALITY**

Consultant will hold in confidence any Agency materials to which the Consultant has access, or materials prepared by the Consultant during the course of this Agreement ("Confidential Information"). Consultant will exercise all reasonable precautions to prevent the disclosure of Confidential Information to anyone except the officers, employees, and agents of the Consultant as necessary to perform services under this

Agreement. Consultant, its employees, subcontractors, and agents, may not release any Confidential Information, and any reports or other materials prepared by it under this Agreement, whether deemed confidential or not, without the prior written approval of Agency.

### **13. INDEMNIFICATION**

Consultant will defend, indemnify and hold harmless the Agency, its directors, officers, employees and agents from and against any and all suits, claims or actions arising out of (i) any injury to persons or damage to property that may occur, or that may be alleged to have occurred, arising from the performance of this Agreement by the Consultant and caused by the willful misconduct, negligent act or omission by Consultant, its employees, subcontractors or agents, or (ii) any allegation that materials or services provided by the Consultant under this Agreement infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual-property or proprietary right of any third party.

The Consultant further agrees to defend any and all such suits, claims or actions, and pay all reasonable charges of attorneys and all other costs and expenses of defenses as they are incurred. If any judgment is rendered against the Agency or any of the other individuals enumerated above in any such action, the Consultant will, at its expense, satisfy and discharge the same. This indemnification will survive the expiration or earlier termination of this Agreement.

### **14. INSURANCE**

#### **A. Types of Insurance**

(1) Workers' Compensation Insurance. If Consultant employs any person to perform work under this Agreement, Consultant will procure and maintain:

(a) Workers' Compensation Insurance meeting the requirements of the State of California, and

(b) Employer's Liability Insurance with a policy limit of at least One Million Dollars (\$1,000,000) per accident or illness.

The policy will contain a waiver of subrogation in favor of Agency and its directors, officers, employees and agents, while acting in such capacity, and their successors and assignees, as they now or as they may hereafter be constituted, singly, jointly, or severally.

(2) Commercial General Liability Insurance. Consultant will procure and maintain Commercial General Liability insurance providing bodily injury and property damage coverage with a combined single limit of at least One Million Dollars (\$1,000,000) per occurrence or claim and a general aggregate limit of at least Two Million Dollars (\$2,000,000). This insurance will include, but not be limited to, premises and operations, contractual liability covering the indemnity provisions contained in this Agreement, personal injury, products and completed operations, and broad form property damage, and include a Cross Liability endorsement. Said Policy will protect the Consultant and the Agency in the same manner as though a separate policy had been issued to each, but nothing in said policy will operate to increase the insurance company's liability as set forth in its policy beyond the amount or amounts shown or to which the insurance company would have been liable if only one interest had been named as an insured.

(3) Comprehensive Automobile Liability Insurance. Consultant will procure and maintain Automobile Liability insurance on vehicles used in connection with its business in an amount not less than One Million Dollars (\$1,000,000) combined single limit per occurrence or claim. This insurance will provide

contractual liability covering all motor vehicles and mobile equipment to the extent coverage may be excluded from general liability insurance.

(4) Professional Liability Insurance. Consultant will maintain Professional Liability insurance covering Consultant's performance of this Agreement in an amount not less than One Million Dollars (\$1,000,000) per occurrence or claim.

**B. Other Requirements**

(1) Insurers. All insurance policies must be issued by a California admitted carrier. Insurance policies issued by surplus lines carriers are not acceptable absent the express written approval of Agency and the carrier is listed on the California DOI LASLI list. Policies must be issued by insurers must have a Best Financial Strength Rating of A- or better, and be in the Best Financial Size Category of VII or larger.

(2) Endorsements

(a) The company(ies) issuing all such policies will agree to give Agency thirty (30) days advance written notice of non-renewal or cancellation.

(b) The Commercial General Liability and Automobile Liability policies (but not the Professional Liability policy) will include Agency, its directors, officers and employees as additional insureds.

(c) The Commercial General Liability and Automobile Liability policies will be primary to and not contributing with any insurance maintained by Agency.

(d) The inclusion of more than one insured on the Commercial General Liability and Automobile Liability policies will not affect the rights of such insureds as against one another; such policies will protect Consultant and Agency as though a separate policy had been issued to each, but inclusion of more than one insured will not increase the limits of the insurer's liability.

(3) Evidence of Insurance. Before commencing work, Consultant will provide Agency with a certificate or certificates of insurance evidencing the existence of the required insurance policies. Agency may request a duplicate original of such policies and endorsements. The Consultant may not violate or permit to be violated any conditions or provisions of said policies of insurance, and at all times will satisfy the requirements of the insurer for the purpose of maintaining the required insurance in effect.

(4) Notice to Agency. If any claim is made by any third person against the Consultant on account of any incident connected to the Agreement, the Consultant will promptly report the fact in writing to the Agency, giving full details of the claim.

(5) Self-Insurance, Deductibles, and Retentions. Upon evidence of financial capacity satisfactory to the Agency, and Consultant's agreement to waive subrogation against the Agency respecting any and all claims that may arise, Consultant's obligation hereunder may be satisfied in whole or in part by adequately funded self-insurance. Consultant shall be responsible for payment of any deductible or retention on Consultant's policies without right of contribution from the Agency. Deductible and retention provisions shall not contain any restrictions as to how or by whom the deductible or retention is paid. Any deductible or retention provision limiting payment to the Named Insured is unacceptable. In the event that the policy of the Consultant or any subcontractor contains a deductible or self-insured retention, and in the event that the Agency seeks coverage under such policy as an additional insured, Consultant shall satisfy such deductible or self-insured retention to the extent of loss covered by such policy for a lawsuit arising from or connected with any

alleged act or omission of Consultant, subcontractor, or any of their officers, directors, employees, agents, or suppliers, even if Consultant or subcontractor is not a named defendant in the lawsuit.

(6) Subconsultants. Any person, firm, or corporation that the Consultant authorizes to work pursuant to this Agreement, including any subcontractor, is deemed to be the Consultant's agent and is subject to all applicable terms of this Agreement. Prior to the Consultant's start of the work, the Consultant agrees to require its subcontractors to procure and maintain, at the Consultant's (or its subcontractor's) sole cost and expense (and to prove to the Agency's reasonable satisfaction that it remains in effect throughout the performance of the work under this Agreement), the kinds of insurance described above. Such insurance must remain in effect throughout the term of this Agreement and will be at the sole cost and expense of the Consultant (or its subcontractors).

## **15. RECORDS**

Agency and its authorized representatives, including the California State Auditor, may inspect and make copies of Consultant's books, records and data relating to the Agreement at any reasonable time and may audit and verify invoices submitted by Consultant. Consultant will provide such assistance as may be reasonably required in the course of such inspection and audit.

Consultant will maintain its records relating to this Agreement, and make them available for inspection, for a period of three (3) years after Agency makes final its payment to Consultant.

## **16. NONDISCRIMINATION**

In connection with the performance of this Agreement, the Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, citizenship, political activity or affiliation, national origin, ancestry, physical or mental disability, marital status, age, medical condition (as defined under California law), veteran status, sexual orientation, gender identity, gender expression, sex or gender (which includes pregnancy, childbirth, breastfeeding, or related medical conditions), taking or requesting statutorily protected leave, or any other characteristics protected under federal, state, or local laws. The Consultant shall take affirmative actions to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religion, color, sex, disability, national origin, or any other characteristic protected under state, federal, or local laws. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

## **17. COMPLIANCE WITH LAW**

In connection with the performance of this Agreement, Consultant will comply with all applicable federal and state laws, including regulations of federal and state agencies, and with applicable local ordinances.

## **18. MODIFICATION**

This Agreement may be modified or amended only by a written document signed by both parties.

## **19. TERMINATION**

Agency may terminate this Agreement at any time and for any reason by written notice. Upon receiving notice of termination, Consultant will promptly deliver to Agency all materials prepared or obtained in performance of this Agreement and will not commit itself to any further expenditure of time or resources.

If the Agreement is terminated for any reason other than a breach or default by Consultant, Agency will pay Consultant, in accordance with the provisions of Sections 3 and 4, all sums actually due and owing from Agency for all services performed and all expenses incurred up to the day written notice of termination is given, plus any costs reasonably and necessarily incurred by Consultant to effect such termination. If the Agreement is terminated for breach or default, Agency will pay Consultant for only those services performed and expenses incurred in full accordance with the terms of this Agreement, up to the effective date of termination. Whether terminated for breach or for convenience, the Agency will not in any manner be liable for the Consultant's actual or projected lost profits had the Consultant completed the services required by this Agreement.

## **20. DISPUTE RESOLUTION**

In the event of any dispute, the parties will promptly meet and confer, first at a staff level and then elevated to a meeting of executives, in a good faith attempt to resolve the dispute. If a dispute cannot be resolved by the parties independently, they may agree to submit such dispute to non-binding mediation by a mutually agreed-upon neutral third party with offices in the San Francisco Bay Area. The cost of mediation will be shared equally. Unless otherwise directed by Agency, Consultant will continue performance under this Agreement while matters in dispute are being resolved.

In the event the parties agree to mediation, the party proposing mediation will provide the other party with the names of three mediators (provided by the American Arbitration Association, JAMS, or other such organization), each of which is acceptable to that party. The other (second) party will select one of the three mediators and notify the first party of its selection within fifteen (15) days after receiving the names of the three mediators. If the second party fails to make a selection within this fifteen (15) day period, the first party may either select the mediator from among the three it proposed or may pursue its legal and equitable remedies through litigation.

The parties will meet with the mediator within thirty (30) days of his/her selection and will discuss the dispute with the mediator in a good faith effort to reach an agreement. However, nothing in this section requires either party to make a concession or accept an offer. If the mediation does not resolve the matter to the satisfaction of both parties within sixty (60) days after the mediator is selected, either party may pursue its legal and equitable remedies through litigation. Any lawsuit between the parties will be filed and prosecuted in the Superior Court of the State of California. The agreed venue is the County of San Mateo. This section does not limit Agency's right to terminate the Agreement.

## **21. NOTICE**

All notices will be given in writing by personal delivery, or first class mail, to the parties at the following addresses:

If to Agency: Bay Area Water Supply & Conservation Agency  
155 Bovet Road, Suite 650  
San Mateo, CA 94402  
Attention: CEO and General Manager

If to Consultant: \_\_\_\_\_

Notice given by mail will be deemed received two days after it is deposited in the United States mail postage prepaid, addressed as provided above.



Day-to-day communications will be between \_\_\_\_\_ for Agency at (650) 349-3000, and \_\_\_\_\_ for Consultant at (\_\_\_\_) \_\_\_\_\_

## **22. CONFLICT OF INTEREST**

The Consultant warrants and represents that it presently has no interest and agrees that it will not acquire any interest which would present a conflict of interest under California Government Code §§ 1090 et seq. or §§ 87100 et seq. during the performance of services under this Agreement. The Consultant further covenants that it will not knowingly employ any person having such an interest in the performance of this Agreement. Violation of this provision may result in this Agreement being deemed void and unenforceable.

Depending on the nature of the work performed, the Consultant may be required to publicly disclose financial interests under the Agency's Conflict of Interest Code. The Consultant agrees to promptly submit a Statement of Economic Interest on the form provided by Agency upon receipt.

No person previously in the position of director, officer, employee or agent of the Agency may act as an agent or attorney for, or otherwise represent, the Consultant by making any formal or informal appearance, or any oral or written communication, before the Agency, or any officer or employee of the Agency, for a period of twelve (12) months after leaving office or employment with the Agency if the appearance or communication is made for the purpose of influencing any action involving the issuance, amendment, award or revocation of a permit, license, grant or contract.

## **23. PUBLICITY**

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

## **24. WAIVER**

A waiver of any requirement of this Agreement must be in writing by an authorized representative of the party waiving the requirement. The waiver by either party of a breach of any requirement of this Agreement will not be deemed a waiver of any such breach in the future or of a breach of any other requirement.

## **25. INTERPRETATION**

Section headings are solely for convenience and are not intended to affect the interpretation of the Agreement. The Agreement will be interpreted reasonably, not in favor of or against either party.

## **26. ENTIRE AGREEMENT**

This Agreement including any exhibits or attachments, constitutes the complete agreement between the parties and supersedes any prior agreements, promises, and understandings whether written or oral. This Agreement may be modified or amended only by written instrument signed by both the Consultant and the Agency. In the event of a conflict between the terms and conditions of this Agreement and any Exhibit, the terms of this Agreement will control.

## **27. NO THIRD PARTY RIGHTS**

The parties do not intend this Agreement to create rights in any third parties and nothing in this Agreement should be construed to do so.

**28. SEVERABILITY**

If any provision of this Agreement or any portion thereof is held to be invalid or unenforceable for any reason, that provision will be reformed and/or construed consistently with applicable law as nearly as possible to reflect the original intentions of this Agreement, and in any event such provision will be severable and will not affect the validity or enforceability of any other provision.

**29. BINDING ON SUCCESSORS**

All of the terms, provisions and conditions of this Agreement will be binding upon and inure to the benefit of the parties and their respective successors, permitted assigns and legal representatives.

**30. AGENCY WARRANTIES**

The Agency makes no warranties, representations, express or implied, beyond such as are explicitly stated in this Agreement.

**31. APPLICABLE LAW**

This Agreement, its interpretation and all work performed under it will be governed by the laws of the State of California.

IN WITNESS WHEREOF the parties have executed this Agreement by their duly authorized officers as of the day and year first above written.

BAY AREA WATER SUPPLY & CONSERVATION AGENCY

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

CONSULTANT

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

Taxpayer ID Number: \_\_\_\_\_

## ATTACHMENT A: SOFTWARE REQUIREMENTS

### 1. SERVICE LEVEL AGREEMENT

The following additional requirements apply the software solution:

- a. **Application Availability.** Consultant must provide 99.99% application availability and maintain logs establishing uptime and downtime for the duration of the Contract.
- b. **Actual Application Availability %** = (Monthly Minutes (MM) minus Total Minutes Not Available (TM)) multiplied by 100) and divided by Monthly Minutes (MM), but not including Excluded Events
- c. **Service Credit Calculation:** An Outage will be deemed to commence when the Applications are unavailable to Agency and end when Consultant has restored availability of the services. Failure to meet the 99.99% Application Availability, other than for reasons due to an Excluded Event, will entitle Agency to a credit as follows:

<b>Actual Application Availability % (as measured in a calendar month)</b>	<b>Service Credit to be applied to the Agency's monthly invoice for the affected month</b>
<99.99% to 99.9%	10%
<99.9% to 99.75%	15%
<99.75% to 98.75%	25%
<98.75 to 97.75%	35%
<97.75%	50%

- d. **"Outage"** means the accumulated time, measured in minutes, during which Agency is unable to access the Applications for reasons other than an Excluded Event.
- e. **"Excluded Event"** means any event that results in an Outage and is caused by (a) the acts or omissions of Agency, its employees, customers, contractors or agents; (b) the failure or malfunction of equipment, applications or systems not owned or controlled by Consultant or its subcontractors; (c) Force Majeure events, excluding acts resulting in a breach of Confidential Information or Personally Identifiable Information; (d) scheduled or emergency maintenance, alteration or implementation provided during the Maintenance Period defined below; (e) any suspension of the services in accordance with the terms of the Contract; (f) the unavailability of required Agency personnel, including as a result of failure to provide Consultant with accurate, current contact information; or (g) using an Application in a manner inconsistent with the product documentation for such Application.
- f. **"Maintenance Period"** means scheduled maintenance periods mutually agreed upon by Agency and Consultant to maintain and update the services, when necessary. During these Maintenance Periods, the Services are available to Consultant to perform periodic maintenance services, which include vital software updates. Consultant will use its commercially reasonable efforts during the Maintenance Period to make the services available to Agency; however, some changes will require downtime. Consultant will provide notice for planned downtime via an email notice to the primary Agency contact at least one day in advance of any known downtime so planning can be facilitated by Agency.
- g. **"Monthly Minutes (MM)"** means the total time, measured in minutes, of a calendar month commencing at 12:00 am of the first day of such calendar month and ending at 11:59 pm of the last day of such calendar month.
- h. **"Total Minutes Not Available (TM)"** means the total number of minutes during the calendar month that the services are unavailable as the result of an Outage.

## 2. TRANSITION

Upon the termination or expiration of this Agreement, the Consultant must cooperate fully with the Agency, and any successor Consultant to provide to the Agency, and any successor Consultant, electronic copies of all branding materials, logos, reports, designs, drawings, plans, specifications, schedules, information, payment history, payment records, and other materials prepared, or in the process of being prepared for the services to be performed by Consultant (Work Product) to ensure a smooth transition to a new software solution. All Agency data must be protected, kept secure, and transmitted securely at all times in accordance with the terms of this Agreement. All Work Product must be provided in a format that is usable by the successor Consultant, such as latest version of Microsoft WORD and/or EXCEL.

If the Agency terminates the Agreement, the Consultant must begin preparing all Work Product to allow for a smooth transition to a successor Consultant or to permit the Agency to operate a similar software solution in the future. Within 30 calendar days of the Agency's termination of the Agreement, the Consultant must transfer all other Work Product, including written reports, data, and other relevant information, to the Agency and the successor Consultant. The Agency will withhold payment of Consultant's final invoice until Consultant has ensured a smooth transition to the successor Consultant or transmitted all required documents for the Agency's records, as determined by the Agency in its sole discretion.

Upon expiration of this Agreement, Consultant must transfer all other Work Product, including written reports, data, and other relevant information, to the Agency and the successor Consultant (if applicable). The Agency will withhold payment of Consultant's final invoice until Consultant has ensured a smooth transition to the successor Consultant or transmitted all required documents for the Agency's records, as determined by the Agency in its sole discretion.

## Exhibit B: Existing WCDB Content and Interface

The screenshot shows the BAWSCA Core Data Management interface. At the top left is the BAWSCA logo (Bay Area Water Supply & Conservation Agency). To the right are links for 'HELP' and 'SIGN OUT'. A navigation bar contains 'HOME', 'DATA', 'TASKS', 'INFORMATION', and a search icon. The main banner features a landscape with mountains and a rainbow, with the text 'BAWSCA CORE DATA MANAGEMENT'. Below the banner, a dark box contains the text '2020 ANNUAL REPORTING IS NOW OPEN' and 'DATA ENTRY OPTIONS FOR THE 2016-17 ANNUAL REPORT ARE NOW AVAILABLE. YOU CAN GET STARTED NOW BY USING THE TASK MANAGER →'. A 'TASK MANAGER' button is located in the bottom right of this box.

The screenshot shows the 'TASK MANAGER' interface. At the top left is the title 'TASK MANAGER' and at the top right is the breadcrumb 'Home / Task Manager'. The main content area features a horizontal bar chart titled 'Data Entry Status, All Agencies: FY 2019-20'. The chart shows the following data:

Category	Percent Complete
Agency Profile	75
Single Family Billing Rates	78.6
Supply Projections by Source	135
Water Production	75.5
Consumption by Customer Category	48.4
Conservation Measures	15.02

Below the chart is a list of data entry tasks, each with a '+ x' icon:

- Agency Profiles
- Single Family Billing Rates
- Supply Projections by Source
- Consumption by Customer Class

On the right side of the interface, there are two 'Edit Agency Data' sections, each with a 'Select Agency' dropdown and an 'EDIT' button. Below these are 'Lock/Unlock Agency Forms' (with a dropdown and 'EDIT' button) and 'Downloads' (with links for 'Current Annual Report', 'Current Data Set', and 'Historical Data Set'). At the bottom right is a 'Messages' section with a notification icon showing '7'.



Consumption by Customer Class <span style="float: right;">+ x</span>	
<b>Water Production</b> <span style="float: right;">- x</span>	
Agency	Status
Alameda County Water District	<a href="#">FINISHED</a>
Brisbane, City of	<a href="#">FINISHED</a>
Burlingame, City of	<a href="#">FINISHED</a>
Cal Water Service Co. - Bear Gulch	<a href="#">FINISHED</a>
Cal Water Service Co. - Mid-Peninsula	<a href="#">FINISHED</a>
Cal Water Service Co. - SSF	<a href="#">FINISHED</a>
Coastside County Water District	<a href="#">FINISHED</a>
Daly City, City of	<a href="#">FINISHED</a>
East Palo Alto	<a href="#">FINISHED</a>
Estero Municipal Improvement District	<a href="#">FINISHED</a>
Guadalupe Valley Municipal Improvement District	<a href="#">NO DATA</a>
Hayward, City of	<a href="#">FINISHED</a>

**Messages** 7

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**San Jose, City of** 143 d

Hello, I am trying to download the LAM workshop presentation from 4.26.21. I see it listed in the "other information" section

[dismiss](#)

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**City of Sunnyvale** 336 d

[dismiss](#)

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**City of Sunnyvale** 336 d

[dismiss](#)

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**City of Sunnyvale** 336 d

[dismiss](#)

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**City of Sunnyvale** 336 d

[dismiss](#)

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**City of Sunnyvale** 336 d

[dismiss](#)

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**City of Sunnyvale** 336 d

[dismiss](#)

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Old Messages



## EXHIBIT C: CALIFORNIA LEVINE ACT STATEMENT

California Government Code Section 84308, commonly referred to as the "Levine Act," prohibits any BAWSCA Board Member from participating in any action related to a contract if he or she receives any political contributions totaling more than \$250 within the previous twelve months, and for three months following the date a final decision concerning the contract has been made, from the person or company awarded the contract. The Levine Act also requires a member of the BAWSCA Board who has received such a contribution to disclose the contribution on the record of the proceeding.

The names of Board members are stated on BAWSCA's website at:

<http://bawasca.org/about/board>

Proposers are responsible for accessing this link to review the names prior to answering the following questions.

1. Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any BAWSCA Board Member in the 12 months preceding the date of the submission of your proposals or the anticipated date of any Board action related to this contract?

YES       NO

if yes, please identify the Board Member(s):

2. Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contribution of more than \$250 to any BAWSCA Board Member in the three months following any Board action related to this contract?

YES       NO

if yes, please identify the Board Member(s):

Answering yes to either of the two questions above does not preclude the BAWSCA from awarding a contract to your firm or any taking any subsequent action related to the contract. It does, however, preclude the identified Board Member(s) from participating in any actions related to this contract.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of authorized individual

\_\_\_\_\_  
Type or write name of authorized individual

\_\_\_\_\_  
Type or write name of company

## EXHIBIT D: COST PROPOSAL FORM

<i>Exhibit D: Cost Proposal Form</i>			
Refer to Section 6.F of the RFP for instructions on how to complete this Cost Proposal Form. Tasks 1-7 in the "Cost Category" column below refer to the tasks listed in Section 4 of the RFP; please refer to Section 4 when completing the Cost Proposal Form.			
Cost Category	One-Time Cost	On-Going Annual Cost	Comments
Task 1 - Project Management		N/A	
Task 2 - Review Existing WCDB		N/A	
Task 3 - WCDB Redesign Scope & Needs Assessment		N/A	
Task 4 - Develop WCDB		N/A	
Task 5 - User Training		N/A	
Task 6 - Ongoing Technical Support			
Task 7 - Warranty		N/A	
If applicable, Data Conversion Services (as needed to transition from existing WCDB to new WCDB)			
If applicable, Hosting Fee			
If applicable, Software License Fee			
If applicable, Hardware			
If applicable, Other Fee(s)			
<b>TOTAL COST</b>			