



REQUEST FOR PROPOSALS:

Water Use Efficiency Legislative Requirements Support Services

SUBMITTALS DUE:

By 5 pm – May 20, 2022

INTERVIEW DATE (IF NEEDED):

May 27, 2022

RETURN TO:

Bay Area Water Supply & Conservation Agency
155 Bovet Road, Suite 650
San Mateo, CA 94402
(650) 349-3000

TABLE OF CONTENTS

1. Intent of Request for Proposals	1
2. About BAWSCA	1
3. Project Background.....	1
4. Project Description	3
5. Project Schedule	7
6. Pre-Proposal Conference.....	7
7. Required Proposal Format	7
8. Proposal Instructions and Submittal Information.....	9
9. Ex-Parte Communications.....	10
10. Addenda to RFP.....	10
11. Withdrawal of Proposal	10
12. Evaluation of Proposals, INTERVIEWS, and Selection Procedure	10
13. BAWSCA Rights	11
14. Confidentiality	11
15. Waiver.....	12
16. Form of Agreement	12
Exhibit A: BAWSCA Standard Agreement	A-1
Exhibit B: California Levine Act Statement.....	B-1

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 service providers to support BAWSCA member agencies in meeting the new standards for water use efficiency and performance measures for commercial, industrial, and institutional (CII) water use expected to be established by the State of California. This Request for Proposals (RFP) is for Phase 3 of BAWSCA's "Making Conservation a Way of Life" Strategic Plan (Plan), a multi-year effort to support BAWSCA member agencies with preparing for, complying with, and reporting on the new water use efficiency targets. Phase 3 (Project) is expected to be completed in Fiscal Year (FY) 2022-2023 and includes guidance for agencies to comply with CII performance measure standards, potential as needed services, and a Subscription Program for agencies to receive additional, customized support.

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 (collectively, Wholesale Customers or member agencies) that provide water to more than 1.85 million residents and 40,000 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 by the City/County of San Francisco and operated by the San Francisco Public Utilities Commission (SFPUC).

BAWSCA manages a Regional Water Conservation Program that is made up of several different programs and initiatives and is designed to support and augment the member agency and customer efforts to use water more efficiently. The Regional Water Conservation Program includes both Core Programs, implemented regionally throughout the BAWSCA service area, and Subscription Programs, funded by individual member agencies that elect to participate (Participating Agencies) and implemented within their respective service areas.

3. PROJECT BACKGROUND

Following the 2012-2016 drought, then-Governor Brown issued Executive Order B-37-16 in May 2016 and the California Department of Water Resources (DWR), State Water Resources Control Board (SWRCB), and other state agencies jointly released a report in 2017 entitled, "Making Water Conservation a California Way of Life, Implementing Executive Order B-37-16" (2017 Framework)¹ The report included a framework to establish a new foundation for long-term improvements in water conservation and drought planning. In 2018, the California State Legislature (Legislature) enacted two policy bills, (Senate Bill (SB) 606 (Hertzberg) and Assembly Bill (AB) 1668 (Friedman)), to implement the provisions of the 2017 Framework.

SB 606 and AB 1668 established a standard for efficient indoor residential water use and directed DWR and the SWRCB to adopt efficiency standards for outdoor residential use, water losses, and CII outdoor landscape areas with dedicated irrigation meters. These volumetric standards apply to an

¹ 2017 Framework: https://cawaterlibrary.net/wp-content/uploads/2017/06/20170407_EO_B-37-16_Final_Report.pdf

urban retail water supplier^{2 3} (Water Supplier) that will use the efficiency standards to calculate its urban water use objective (UWUO), which is later compared to its actual aggregate water use for reporting purposes. SB 606 and AB 1668 also require DWR and the SWRCB to establish performance measures for CII water use and appropriate variances for unique uses that can have a material effect on water use of an urban retail water supplier.

The water use efficiency standards are currently under development and expected to be adopted by the SWRCB in 2022. Water Suppliers will begin reporting on their UWUO and actual water use in 2024 and will be required to meet their UWUO by 2027. Reporting on the CII performance standards may be required sooner than the UWUO.

BAWSCA "Making Conservation a California Way of Life" Strategic Plan

In 2017, and in anticipation of the water use efficiency legislation, BAWSCA began a strategic initiative, the "Making Conservation a Way of Life" Strategic Plan, to provide critical information to assist BAWSCA in representing the interests of the BAWSCA member agencies regarding the then-proposed state regulations and to help agencies prepare for the legislative requirements.

Phase 1 of the Plan had two primary goals: (1) evaluate the feasibility of implementing the UWUO proposed by the State and associated cost impacts to BAWSCA agencies, and (2) identify actions to support BAWSCA agencies in preparing for and implementing the urban water use objectives. The Plan evaluated the BAWSCA member agencies' existing practices related to various elements of the new requirements, including outdoor landscape area measurements; CII account classification systems; dedicated irrigation meters; advanced metering infrastructure (AMI); and water loss evaluation. The Plan also provided a detailed roadmap (i.e., a multi-year strategy) for BAWSCA and its member agencies to improve water efficiency for the region. The Plan Phase 1 Report⁴ was released in 2018, shortly after adoption of SB 606 and AB 1668.

Phase 1 identified that there is a need to better understand commercial water use, including benchmarking, and that an increased number of annual CII audits would provide more robust data on commercial water use and the associated savings. Phase 2 of the Plan implemented a pilot study to evaluate the potential of an electronic CII Audit Survey Tool and determine the feasibility of a Regional CII Audit Program. Phase 2 was cut short by the COVID-19 pandemic. However, BAWSCA was able to successfully launch an online survey tool for a selected industry (hotels) and evaluate results.

Now that DWR has released draft recommendations for the water use efficiency standards, and with adoption expected in 2022, BAWSCA is prepared to begin Phase 3 of the Plan to help agencies with reporting and compliance. Phase 3 will develop a series of tools to help BAWSCA member agencies identify necessary data to gather, understand reporting requirements, and provide actionable steps to begin the process.

BAWSCA is proposing to partner with the Santa Clara Valley Water District (Valley Water) on the Project so that the resources developed may benefit all agencies in the BAWSCA and Valley Water

² "Urban retail water supplier" means a water supplier, either publicly or privately owned, that directly provides potable municipal water to more than 3,000 end users or that supplies more than 3,000 acre-feet of potable water annually at retail for municipal purposes. (California Water Code § 10608.12)

³ Note that not all BAWSCA member agencies are urban retail water suppliers. Agencies that are not currently urban retail water supplier are not subject to the requirements of SB 606 and AB 1668.

⁴ Plan Phase 1 Report: https://bawasca.org/uploads/userfiles/files/BAWSCA_Conservation%20Strategic%20Plan%20Phase%201_Final_9-17-18_cx.pdf

service areas. Of BAWSCA's 26 member agencies, eight (8) are also in Valley Water's service area. There are 14 water agencies in Valley Water's service area. BAWSCA and Valley Water plan to enter into a memorandum of agreement (MOA) to share the cost of the Project. However, BAWSCA will administer the contract and manage the Project. BAWSCA reserves the right to limit the Project to the BAWSCA service area if the MOA with Valley Water is not executed.

4. PROJECT DESCRIPTION

BAWSCA seeks to select a firm (Consultant) to develop and complete Phase 3 of the Plan. Phase 3 will include guidance materials for agencies to comply with CII performance measure standards, potential as needed services, and may include a Subscription Program for agencies to receive additional, customized support.

DWR has released draft recommendations for the three (3) CII performance measures as required by the legislation: 1) CII water use classification system, 2) minimum size threshold for converting CII mixed-use meters (MUMs) to Dedicated Irrigation Meters (DIMs), and 3) CII water use best management practices (BMPs).

DWR has yet to release final recommendations for the water use efficiency standards. The tasks outlined in this RFP reflect what is currently known about the draft recommendations. SB 606 and AB 1668 require the SWRCB to adopt long-term standards by June 30, 2022. However, DWR and the SWRCB have not met other deadlines outlined in the legislation and it is possible that the SWRCB will miss the June deadline as well.

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. Monthly status and budget updates will be shared via email and include, as an attachment, a cover letter summarizing the work effort in combination with updated Excel spreadsheets detailing budget and schedule status.

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

Task 2 – CII Classification System Roadmap

SB 606 and AB 1668 require DWR, in coordination with the SWRCB, to develop a CII water use classification system for California that address significant uses of water. DWR worked with a stakeholder advisory group to develop a water-centric standardized classification system of 19 CII customer categories. If the SWRCB adopts the CII water use classification system presented in DWR's current draft recommendations, Water Suppliers will have up to five (5) years after the SWRCB adopts this standard to complete mapping of accounts. The minimum level of progress in account mapping will be 20% per year. Water Suppliers are not required to change or modify their billing systems, as long as the required performance reporting per CII water use classification system can be provided.

Consultant will conduct a study and develop a roadmap for BAWSCA and Valley Water agencies to comply with the CII Water Use Classification System performance measure. The study will identify and evaluate a list of resources available to assist with the classification of CII accounts. Potential

resources include, but are not limited to, county assessor data and private companies such as ParcelQuest. Consultant will evaluate the assessor data for all three counties in BAWSCA's and Valley Water's service areas (Alameda County, San Mateo County, and Santa Clara County).

The roadmap will describe reporting requirements and best practices for mapping and maintaining the required classification system. The list of best practices will include, but is not limited to, 1) a process for determining which classification is most appropriate when a CII account fits multiple classification descriptions, 2) formal procedures to collect classification information and update classifications with modified or new service requests, and 3) a process for conducting periodic reviews and updating account mapping.

Consultant will summarize the work conducted in the study and provide the roadmap in the CII Water Use Classification System Performance Measure Technical Memorandum (TM). A draft of this TM will be provided for BAWSCA's review. Consultant will finalize this TM incorporating BAWSCA's feedback.

Task 2 Deliverables

- One (1) kick-off meeting, approximately two (2) hours, with BAWSCA and Valley Water agencies to introduce the project and gather information from the agencies
- CII Water Use Classification System Performance Measure Roadmap TM
- One (1) meeting, approximately two (2) hours, with BAWSCA and Valley Water agencies to present study findings and TM

Task 3 – CII Dedicated Irrigation Meter Conversion Threshold Roadmap

SB 606 and AB 1668 require DWR, in coordination with the SWRCB, to determine minimum size thresholds for converting CII mixed-use meters (MUMs) to dedicated irrigation meters (DIMs) and evaluate technologies that could be used in lieu of requiring DIMs. DWR's current recommendations establish a one (1) acre threshold for aggregate irrigated CII landscape area, measured on a per parcel basis. After identifying CII landscapes at or above this threshold, Water Suppliers must choose one of three compliance pathways: 1) mixed meter conversion, 2) implementation of in-lieu technologies, or 3) a reduction in aggregate landscape area below the threshold.

If the SWRCB adopts the CII water use classification system presented in DWR's current draft recommendations, Water Suppliers must develop an implementation plan and schedule that will result in full compliance within five (5) years of the date the SWRCB adopts this performance measure.

Many BAWSCA member agencies participate in either BAWSCA's or Valley Water's Large Landscape Program.^{5 6} These programs, administered by the same firm (Waterfluence), measure CII landscapes and provide water budgets based on real-time and site-specific characteristics. This program has helped to identify many CII MUMs already. Eleven (11) BAWSCA member agencies are enrolled in the BAWSCA Large Landscape program for fiscal year 2021-22. In 2020, 1,435 large landscape sites were enrolled in the BAWSCA program. Nine (9) Valley Water agencies participated in its Large Commercial Landscape Program in calendar year 2020, with 2,935 large landscape sites enrolled in the program. While these programs have been in place for several years, more work is needed to help agencies comply with the CII DIMs Conversation Threshold performance measure.

⁵ BAWSCA's Large Landscape Program: <https://bawasca.org/consERVE/programs/audits>

⁶ Valley Water's Large Commercial Landscape Program: <https://www.valleywater.org/saving-water/rebates-surveys/commercial-landscape-surveys>

This Project will not change or influence either BAWSCA's or Valley Water's existing Large Landscape Programs.

Consultant will conduct a study and develop a roadmap for BAWSCA and Valley Water agencies to comply with the CII DIM Conversation Threshold performance measure. The study will identify and evaluate a list of resources available to assist with identifying CII landscapes that meet the established threshold and determining whether those landscapes are served by a MUM.

The roadmap will describe reporting requirements for the CII DIM Conversation Threshold performance measure and provide best practices for: 1) identifying CII landscapes that meet this requirement, and 2) determining which compliance pathway is most technically and financially feasible.

Consultant will summarize the work conducted in the study and provide the roadmap in the CII DIM Conversation Threshold Performance Measure Roadmap TM. A draft of this TM will be provided for BAWSCA's review. Consultant will finalize this TM incorporating BAWSCA's feedback.

Task 3 Deliverables

- One (1) kick-off meeting, approximately two (2) hours, with BAWSCA and Valley Water agencies to introduce the project and gather information from the agencies
- CII DIM Conversation Threshold Performance Measure Roadmap TM
- One (1) meeting, approximately two (2) hours, with BAWSCA and Valley Water agencies to present study findings and TM

Task 4 – CII Best Management Practices Roadmap

SB 606 and AB 1668 require DWR, in coordination with the SWRCB, to develop CII best management practices (BMPs) for CII customers that exceed a recommended size, volume of water, or other threshold. BMPs may include, but are not limited to, water audits and water management plans. DWR's draft recommendations establish an implementation threshold for CII customers at 1) individual CII customers with water use volume in the top 2.5% of all CII water users, and 2) CII customers in classifications with water use volume in the top 20% of all CII water users. DWR's draft recommendations exclude CII customers where process water comprises 80% or more of their total water use. If the SWRCB adopts the CII BMPs presented in DWR's current draft recommendations, Water Suppliers will have up to two (2) years after the SWRCB adopts the CII Water Use Classification System performance measure to design and begin implementing a CII BMP program specific to their service area CII customers targeting the sectors (classifications) of CII customers and individual CII customers that exceed the threshold.

DWR hired Maddaus Water Management (Maddaus) to develop a technical memorandum (TM) with a list of CII BMPs, case studies, and results from a state-wide survey on existing agency level CII programs. An outline of the Maddaus report was provided to DWR in May 2021.⁷ BAWSCA anticipates that this report will be the primary resource for identifying CII BMPs that meet DWR's draft recommendations.

The roadmap will describe reporting requirements and best practices for developing and implementing a CII BMP program. The list of best practices will include but is not limited to 1) a process for determining CII customers or classifications where process water comprises 80% or more of total

⁷ Maddaus Water Management Outline for the Summary of Technical Best Management Practices for CII Water Use: <https://calwep.org/wp-content/uploads/2021/07/WUS-and-SMPM-CII-Meeting-Materials-5.24.21.pdf>

water use, and are therefore categorically exempt from this performance measure, 2) a system for tracking implementation, success, and challenges of an Water Supplier's CII BMP program, and 3) coordinating with the corresponding land use authority(ies) to add a requirement for consulting Water Suppliers, where appropriate, for awareness of changes and potential reclassifications and updates of fixtures, appliances, and infrastructure.

Consultant will summarize the work conducted in the study and provide the roadmap in the CII BMP Performance Measure Roadmap TM. A draft of this TM will be provided for BAWSCA's review. Consultant will finalize this TM incorporating BAWSCA's feedback.

Task 4 Deliverables

- One (1) kick-off meeting, approximately two (2) hours, with BAWSCA and Valley Water agencies to introduce the project and gather information from the agencies
- CII BMP Performance Measure Roadmap TM
- One (1) meeting, approximately two (2) hours, with BAWSCA and Valley Water agencies to present study findings and TM

Task 5 – Optional Work/Additional Meetings

Consultant shall provide an estimated cost to present at additional meetings with the BAWSCA and Valley Water member agencies. That cost should be on a dollar per meeting basis and include the following assumptions: 1) two (2) hours pre-meeting preparation; 2) two (2) hours of meeting attendance; and 3) two (2) hours follow up to finalize meeting notes and potential phone call with BAWSCA staff.

Additional work may include a Subscription Program to provide customized support for individual BAWSCA and Valley Water agencies that elect to participate. Potential activities may include, but are not limited to, 1) calculating an agency's UWUO, comparing it to actual water use in the previous year, and support with reporting to the SWRCB, 2) agency-specific support for any of the CII performance measures, and 3) as needed support for agencies to understand, prepare for, comply with, and report on the long-term standards. To facilitate this optional work, Consultant will develop a single unit hourly billing rate for each key personnel it anticipates will provide technical or other support to agencies interested in participating in a Subscription Program.

BAWSCA does not know at this time how many agencies will participate in the Subscription Program or which services they will request. However, to provide context, in FY 2019-20, 22 out of 26 member agencies participated in one or more of BAWSCA's Subscription Programs. Additional information about agency participation in BAWSCA's Subscription Programs can be found in the Annual Water Conservation Report.⁸

Task 7 – Optional Work/Suggested Activities

If the Proposer believes there is additional work not requested in this RFP that could prove of interest to BAWSCA, Valley Water, and their agencies, the Proposer is encouraged to provide that as an optional task for BAWSCA to consider. The cost associated with any such optional tasks must be included.

⁸ BAWSCA Annual Water Conservation Report: https://bawasca.org/uploads/userfiles/files/BAWSCA%20Annual%20Conservation%20Programs%20Report%20FY2019-20_FINAL.pdf

5. PROJECT SCHEDULE

BAWSCA anticipates commencing work in August 2022. The Project must 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: Proposed Project Schedule

Date	Milestone
Aug 2022	Work commences
Aug 2022 - Jan 2023	Conduct studies and develop roadmaps
Jan – Feb 2023	Present study findings and roadmaps to BAWSCA member agencies
Feb – Jun 2023	Continue as needed work

Proposed dates are provided as guidance. BAWSCA requests that the Proposer include a recommended schedule in its response to this RFP. All dates are subject to change at the sole discretion of BAWSCA.

6. PRE-PROPOSAL CONFERENCE

BAWSCA is planning a pre-proposal conference via Zoom, during which potential Proposers may obtain a better understanding of the work required. Attendance at this meeting is not mandatory but is highly recommended. Proposers are encouraged to submit questions in writing prior to the conference. Questions will be considered at any time prior to or during the conference. After the conference, an abstract of the questions and answers, and a list of attendees, will be disseminated.

BAWSCA assumes no responsibility for any expense incurred by proposers prior to contract award. Proposers are cautioned that, notwithstanding any remarks or clarifications given at the conference, all terms and conditions of the solicitation remain unchanged unless they are changed by amendment to the solicitation. If the answers to conference questions, or any solicitation amendment, create ambiguities, it is the responsibility of the proposer to seek clarification prior to submitting a proposal.

The pre-proposal conference will be held:

Date: May 3, 2022
Time: 10AM PDT
Location: Via Zoom

Join Zoom Meeting
<https://us02web.zoom.us/j/86397923524>

Meeting ID: 863 9792 3524
One tap mobile
+16699009128,,86397923524# US (San Jose)

7. 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 (brochures, marketing material, etc.) will not be considered in the evaluation and should not be

submitted. 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 with substantial 1) understanding of the requirements under SB 606 and AB 1668 and 2) experience supporting agencies with various aspects of the legislation assigned to the Project and identified in their proposal.

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 Consultant's perspective on the challenges and complexities associated with reporting and compliance with SB 606 and AB 1668.

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. 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 three (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, demonstrating the individual's substantial experience in supporting agencies with reporting and compliance with legislative requirements. For each reference, proposals shall include a contact name with current phone number and email address and a description of the services performed.

D. Implementation Plan

Proposals shall describe in detail the methodology for completing the Project as described in Section 4 of this RFP. Proposals shall describe the roles and responsibilities of BAWSCA, the Consultant, Valley Water, and the BAWSCA and Valley Water member agencies during each phase of implementation. Proposal shall include a detailed schedule for completion of all tasks.

E. Budget

Proposals shall include an estimated budget for each task and subtask to complete the scope of work. The budget should include the hourly labor rate for all key personnel that will be involved with the Project and their anticipated hours per subtask. Proposals shall list any anticipated reimbursable expenses other than labor. Proposals shall list any optional services as separate budget items. Funding for the Project is contingent on approval of the FY 2022-23 workplan and budget by the BAWSCA Board of Directors.

F. Exceptions to RFP & Standard Agreement

In accordance with Section 16 of this RFP, 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 in the proposal. Failure to specify any exceptions or objection to the requirements, and terms and conditions of this RFP will constitute acceptance of BAWSCA's requirements.

G. 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 B, California Levine Act Statement, and submit it with their proposal.

8. 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 2, 2022 by 5:00 pm, Pacific Daylight Time. Questions should be directed to Danielle McPherson, Senior Water Resources Specialist, by e-mail at dmcpherson@bawsca.org. BAWSCA's reply to questions and/or requests for clarification will be provided by May 6, 2022 to all firms that received the RFP package and will be posted to the BAWSCA website.

Electronic copy proposals must be received by BAWSCA via email by 5:00 pm, May 20, 2022. *Late proposals will be returned unopened.*

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 a searchable electronic copy of the proposal via e-mail to dmcpherson@bawsca.org by the proposal deadline of 5:00 pm on May 20, 2022.

Please send proposals to:

Bay Area Water Supply & Conservation Agency
Attention: Danielle McPherson, Senior Water Resources Specialist
dmcpherson@bawsca.org

To ensure all proposals are received, BAWSCA will respond to all Proposers with an email confirming receipt. If Proposers do not receive the confirmation email, please contact Danielle McPherson by phone at (650) 349-3000. File attachments cannot exceed 100 megabytes. Proposers should contact Danielle McPherson if files exceed this limit.

All proposals will become the property of BAWSCA. Refer to Section 14, Confidentiality.

9. EX-PARTE COMMUNICATIONS

Proposers and Proposers' representatives may not communicate with BAWSCA's Board Members except in writing and if 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.

10. 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 the 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.

11. 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.

12. EVALUATION OF PROPOSALS, INTERVIEWS, 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 the 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.

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 May 27, 2022 for potential interviews.

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

Responses must be prepared and submitted in accordance with the directions specified in Sections 7 and 8. BAWSCA will review proposals and evaluate them based on their relative ranking in each area of the proposal, according to the criteria specified below

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 overall understanding of the requirements of SB 606 and AB 1668. Particular consideration will be given to the qualifications of the Key Personnel that will specifically be assigned to perform the work on this Project. Proposers who have the experience and qualifications to implement similar projects will be rated higher than Proposers who do not have the relevant experience and qualifications. Refer to Section 7, 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 7. Proposals will be evaluated on the proposed approach for accomplishing each task and meeting the overall objective of this Project. Refer to Section 7, 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 7, subsection D.

Cost (25%)

Proposals will be evaluated based on the Proposer's overall value provided within the proposed budget. Refer to Section 7, subsection D and E.

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 7, subsections A, D, and E.

13. 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.

14. 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 Proposer 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.

15. 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.

16. 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 develop resources and support Agency and Santa Clara Valley Water District (Valley Water) agencies with reporting and compliance related to requirements under Senate Bill (SB) 606 and Assembly Bill (AB) 1668 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 has submitted a written proposal, dated _____, 2022, 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 AND TERM

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 all services in accordance with the Schedule included in Section 5, Project Schedule, Table A of Exhibit A, which dates are subject to change at the sole discretion of BAWSCA. In no event will the Project be completed any later than June 30, 2023.

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, subcontractor costs and all other costs and expenses incurred by the Consultant.

The not-to-exceed amount is not guaranteed; compensation will be based on services actually rendered and expenses actually incurred. Agency will pay Consultant at the rates set forth in Exhibit B and will reimburse Consultant for out-of-pocket expenses reasonably and necessarily incurred in performing the work.

The Agency's CEO/General Manager may from time to time request Consultant to perform additional tasks outside the scope of work described in Section 1, and not subject to the not-to-exceed amount described above. At Agency's request, Consultant will provide a proposal for such additional task(s). If engaged, such task(s) will be on a work directive basis and will include a separate not-to-exceed budget for each specific task.

4. MANNER OF PAYMENT

Consultant will submit detailed monthly invoices at the end of each month describing the work performed in the previous month, the personnel performing the work, and their applicable hourly rates of

compensation, which shall be consistent with Exhibit B. Invoices will also include total expenditures to date and the remaining balance on the budgeted or not-to-exceed amount. Invoices will be prepared in a format acceptable to Agency.

Agency will pay for work satisfactorily performed within thirty (30) days after receipt of an invoice meeting the requirements of this section. Should Agency dispute the accuracy of any invoice, or deem Consultant's work unsatisfactory, Agency will notify Consultant within 30 days of receipt of such an invoice. Agency will only pay the undisputed portion of any invoice. Resolution of a dispute over an invoice will be pursuant to Section 20.

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 venturer 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. SUBCONTRACTORS

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

[TBD]

Consultant will be solely responsible for reimbursing any subcontractors 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 Exhibits A and 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

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 subcontractor 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.

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) Subcontractors. 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, including for non-appropriation of funds, 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: Chief Executive Officer 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: _____

Exhibit B: 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