



**REQUEST FOR PROPOSALS:  
HUMAN RESOURCES MANAGEMENT SERVICES**

**SUBMITTALS DUE:**  
By 5pm – April 17, 2026

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

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- Attachment A: BAWSCA Personnel Handbook
- Exhibit A: BAWSCA Standard Agreement
- Exhibit B: California Levine Act Statement

**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 seeking proposals for on-call Human Resources (HR) services from qualified individuals or firms (Proposers) to fill that role and improve its procedures and practices in a way that improves access to HR-related information and improves employee understanding.

## **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 was created to represent the interests of member agencies. BAWSCA has the authority to coordinate water conservation, supply and recycling activities for its agencies; acquire water and make it available to other agencies on a wholesale basis; finance projects, including improvements to the regional water system; and build facilities jointly with other local public agencies or on its own to carry out the agency's purposes. 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. Board members are appointed by and represent their respective member agency. Many Board members are elected officials at their member agencies.

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).

## **3. PROJECT BACKGROUND**

BAWSCA currently has an administrative staff of 9 employees. BAWSCA maintains direct working relationships with all employees through its established HR policies and procedures. Because of its small staff, BAWSCA does not have a full time HR professional but some HR functions are handled by the Office Manager. BAWSCA is seeking an HR consultant whose responsibilities will include single tasks as assigned such as updating and maintaining employee benefit documentation and BAWSCA's Personnel Handbook and new employee onboarding process, as well as ongoing tasks on an as needed basis including but not limited to ensuring ongoing compliance with all relevant HR laws, policies and procedures, recruitment, assistance with employee relations, and other as-needed HR management duties in coordination with the CEO, Office Manager and Legal Counsel.

BAWSCA has a full time Legal Counsel (contracted) who advises on legal matters related to Human Resources; however, the individual or firm selected pursuant to this RFP (Selected Proposer) will be expected to be knowledgeable and current on general legal guidance and practices in the Human Resources field. The proposed contract would be for a base term of one year, with two one-year option terms. It is BAWSCA's practice to enter into annual contracts with its consultants.

For detailed information regarding the required Services, please refer to Section 4, Project Tasks. The Selected Proposer will be expected to provide any and all Services in compliance with applicable local, state, and federal laws, rules and regulations.

#### 4. PROJECT TASKS

Under each task, the Consultant is requested to provide detailed information regarding the work to be completed to meet the Project and individual task objectives.

BAWSCA is willing to consider alternative approaches to the tasks. Proposals should be prepared to align with the approaches described in this Section, and any alternative approach(es), which should include the reasons for recommending a different approach or task structure and a detailed scope of work to support that approach, should be presented separately in the proposal with a separate cost for BAWSCA's consideration.

The Project will include the following tasks:

1. Annual Goal Setting and Review: Consultant will work with the CEO to improve and develop annual evaluation practices for all employees. Consultant will assist BAWSCA managers with annual employee performance goal setting, compile and review evaluations, and present results to CEO and other managers as appropriate. Goal setting is anticipated to occur annually in June and July, with a final schedule to be determined in consultation with the CEO. Process is anticipated to be tied to annual compensation adjustments for employees as applicable. Consultant should propose a software solution for this task.
2. Benefit Documentation and Administration: Consultant will assist in the drafting and continued updating of employment benefit documentation. Additionally, Consultant will aid in the administration of benefits as documented in the material created above. This administration includes but is not limited to: fielding employee questions on benefits, processing benefit enrollments, changes and terminations, and helping in the enrollment process.
3. Legal Compliance: Consultant will assist with review and interpretation of current, revised and/or new HR-related laws, policies and procedures. As part of this, Consultant will proactively ensure compliance with the above laws, policies and procedures. Additionally, Consultant will provide guidance and maintain compliance with CalPERS requirements for staff including but not limited to calculation of service time across classic and PEPRA time periods.
4. Other HR Functions and Support As Needed: Other HR functions and support that are needed include, but not limited to, investigations of complaints by employees, reviewing of counseling or other disciplinary actions, memos, etc., training or coaching of staff in HR areas as needed or required by law, policy or procedure writing, update and/or review, and special projects. Consultant should develop and propose a list of recommended trainings along with the proposed schedule for those trainings.
5. Recruiting, Hiring and Employee Onboarding: Recruitment services would be required as needed when vacancies occur or as expansion of staff is undertaken. The Consultant would work with BAWSCA CEO on the strategy for each recruitment and may work with other staff as delegated by the CEO. Recruitment and hiring work would include:
  - Meet with key managers to develop an ideal candidate profile
  - Write or adapt job description to confirm salary range
  - Develop and implement recruitment and advertisement strategy

- Advertise in appropriate locations, including social media and specialized job boards
- Conduct targeted recruitment if determined to be necessary
- Conduct initial screening and ranking of candidates with hiring manager
- Manage the interview process, including developing questions and scoring and/or skill testing mechanisms
- Check references and conduct background checks as appropriate

Once hired, the Selected Proposer would be required to work with BAWSCA staff to prepare workspace, onboarding materials and assist employees with onboarding paperwork.

6. Offboarding Employees: Develop standardized exit procedures including documented exit interviews, timely processing of final compensation/benefits, recovery of agency property, knowledge transfer facilitation, management of confidentiality agreements, system updates, and compliance with relevant regulations.
7. Managing Leaves: Process and track leave requests (FMLA/CFRA/PDL), determine eligibility, calculate entitlements, maintain accurate documentation, coordinate with payroll/benefits, ensure timely notifications, develop compliant policies, manage return-to-work transitions, and provide regulatory updates as laws evolve.
8. Managing Disability Accommodation Requests: Document accommodation requests, conduct interactive process meetings, evaluate essential job functions, recommend reasonable accommodations, coordinate implementation, monitor effectiveness, maintain confidential medical information, provide compliance training, and document accommodation decisions with supporting rationale.
9. Updating and Maintaining the Personnel Handbook: BAWSCA has a Personnel Handbook (Attachment A) that is approved by the Board. The Personnel Handbook was last adopted by the Board in 2012 but has been updated for internal use in recent years. In consultation with Legal Counsel, the selected proposer will revise and reformat the Personnel Handbook, suitable for Board approval, to ensure it is up to date with any updated laws and policies. Furthermore, the selected proposer will work with BAWSCA to determine whether certain policies are appropriate for Board review and approval and certain handbooks or implementing documents may be maintained by the CEO pursuant to delegated authority.

## 5. PROJECT SCHEDULE

BAWSCA anticipates commencing work in June 2026. Task 9 must be completed within one year of the commencement date. All other tasks will be completed on an as needed basis, upon BAWSCA's request.

## 6. REQUIRED PROPOSAL FORMAT

Proposals 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 for BAWSCA 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 experience in the enumerated scope 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:

- A discussion demonstrating the Proposer's understanding of the Services and their significance to BAWSCA's day-to-day activities.
- Proposer's proposed approach to providing the Services in the form of a work plan that incorporates all of the tasks listed in Section 4 and any proposed changes to Section 4 that the proposer believes will allow BAWSCA to more effectively meet the objectives outlined in this RFP. The work plan should also identify all subconsultants or subcontractors the Proposer intends to use for this Project.
- Identification of additional tasks, if any, not identified in the Scope of Services in Section 4 of this RFP that may be required to successfully meet the stated objectives of this RFP.
- Proposer's approach to working with BAWSCA staff.
- Explain how Key Personnel and subcontractors will be managed.

If the work is to be shared among firms and offices at different locations, indicate where each office is located and what work is to be performed in each office.

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. A staffing plan by task listed in the Scope of Services in Section 4. Discuss workload for all Key Personnel, indicating their expected availability, the percentage of their time that will be devoted to this Project and any other assurances as to their ability to provide the Services in a responsive and timely manner.

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.

Description of Proposer's qualifications to perform the Services, specifically including: Human Resources licenses, trainings and memberships in human resource associations such as SHRM-CP certification. Identify and describe the proposer's Human Resources consulting experience. Experience in public sector employee relations should be

specifically highlighted.

d. Qualifications and Experience of Key Personnel

Key Personnel are those individuals who are essential to the successful completion and execution of the Services. Key Personnel must be available for the duration of the engagement and may not be substituted by the Selected Proposer without BAWSCA's prior written approval.

Substitution of Key Personnel without BAWSCA's prior written approval will constitute a breach of the Agreement awarded pursuant to this RFP. BAWSCA reserves the right to direct the removal of any individual, including Key Personnel. In this section, Proposers must provide the following for all Key Personnel:

- Name and title
- A description of their qualifications and experience relevant to performing the Services
- Number of years of experience performing work similar to or related to the Services
- A resume

e. 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 both BAWSCA and the Consultant. Proposals shall address a plan for collaboration with BAWSCA staff.

f. Budget

Compensation for tasks in Section 4 will be based on a time and materials billing, subject to a not-to-exceed amount. Proposals shall include a not-to-exceed amount based on the hours and cost for each task and subtask to complete the scope of work. The budget must include an estimate of 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 2026-27 workplan and budget by the BAWSCA Board of Directors.

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 (Exhibit A) without alterations or exceptions or whether it is requesting modifications to the standard Agreement and/or any requirements of this RFP. 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.

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, from the person or company awarded the contract, any political contributions totaling more than \$500 within twelve months before or after the date a final decision concerning the contract has been made. 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.

## **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 **5 PM, March 30, 2026**, Pacific Daylight Time. Questions should be directed to Tom Francis, **Water Resources Manager**, by e-mail at [tfrancis@BAWSCA.org](mailto:tfrancis@BAWSCA.org). BAWSCA's reply to questions and/or requests for clarification will be provided by **April 6, 2026**, to all firms that received the RFP package and will be posted to the BAWSCA website.

An electronic copy of proposals must be received by BAWSCA via email by **5 PM, April 17, 2026**. *Late proposals will not be opened, reviewed, or considered by BAWSCA.*

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 6. The content of the proposals should be ordered and numbered as listed in Section 6.
3. Submit a searchable electronic copy of the proposal via e-mail to [tsmegal@BAWSCA.org](mailto:tsmegal@BAWSCA.org) by the proposal deadline of **5 PM, April 17, 2026**.

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 Tom Smegal by phone at (650) 349-3000. File attachments cannot exceed 100 megabytes. Proposers should contact Tom Smegal if files exceed this limit.

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 an 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.

Proposals 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 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 be available 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 (35%)***

Proposals will be evaluated based on the qualifications of the firm and its key personnel as related to the specific tasks in Section 4. 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 Proposers who do not have the relevant experience and qualifications. Refer to Section 6, subsections b and c.

### ***Project Understanding, Approach and Scope of Work (35%)***

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 e.

### ***Cost (30%)***

Proposals will be evaluated based on the reasonableness of the price and hourly rates, and the overall value provided to BAWSCA. 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, subsection f.

## **12. BAWSCA'S 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 § 7920.000 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 or any BAWSCA forms 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 the 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.

Attachment A: BAWSCA Personnel Handbook

**BAY AREA WATER SUPPLY AND CONSERVATION AGENCY**

**PERSONNEL HANDBOOK**

**SEPTEMBER 2003**

**AS AMENDED THROUGH July 2012**

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# **BAY AREA WATER SUPPLY AND CONSERVATION AGENCY**

## **PERSONNEL HANDBOOK**

### **1. INTRODUCTION**

This personnel handbook is designed to present the policies that are most likely to affect you as an employee of the Bay Area Water Supply and Conservation Agency (BAWSCA). These policies apply to all employees unless they have a separate written employment agreement with BAWSCA that specifies to the contrary. Employees should understand that this handbook is not intended to be a contract (express or implied), nor is it intended to otherwise create any legally enforceable obligations on the part of BAWSCA, the BAWSCA Board of Directors, or BAWSCA management.

The Board of Directors of BAWSCA may add to, modify, or delete provisions of this handbook at any time. Any such amendment will be distributed to employees in writing, signed by the Board Chair and by the General Manager/CEO (“General Manager/CEO”). The General Manager/CEO is authorized to implement all provisions of this handbook, except those in which such authority is explicitly reserved to the Board of Directors.

### **2. AT-WILL EMPLOYMENT**

Unless otherwise provided for by statute, written individual contract or collective-bargaining agreement approved by the Board and signed by the Board’s Chair and the General Manager/CEO, all employment at BAWSCA is “at-will.” BAWSCA employees have no property interest in their jobs, no right to or expectation of continued employment, and may be dismissed for any lawful reason, or no reason. This means that both employees and BAWSCA have the right to terminate employment at any time, with or without advance notice, and with or without cause. Also, BAWSCA may demote or discipline employees, or alter the terms of employment at any time, with or without cause, at BAWSCA’s sole discretion.

Only the Board has the authority to alter this arrangement, to enter into any agreement for employment for a specified period of time, or to make any agreement contrary to this policy. Any such agreement must be in writing and must be approved by the Board of Directors and signed by the Board’s Chair, the General Manager/CEO, and the affected employee.

### **3. CATEGORIES OF EMPLOYMENT**

Employees of BAWSCA may be new, regular, or temporary employees. New employees may become regular employees upon successful completion of their introductory period. Regular employees may be either full- or part-time.

Temporary employees are those employed for short-term assignments, and may be full- or part-time. Temporary employees shall not work for BAWSCA for more than (1) six continuous

months, or (2) 1,000 hours during the fiscal year (or, if employed on a per diem basis, 125 days). Temporary employees are not eligible for benefits, except as mandated by law.

All new employees must complete a six-month introductory period. The purpose of this period is to provide the opportunity for BAWSCA to evaluate the employee's capability and for the employee to assess whether the position satisfies his or her expectations. At the General Manager/CEO's discretion, the introductory period may be extended. As with all BAWSCA employment under these policies, BAWSCA may, at its sole discretion, discharge an employee with or without cause during the introductory period.

#### **4. STANDARDS OF CONDUCT DURING EMPLOYMENT**

##### **A. General**

All employees are expected to observe certain standards of job performance and good conduct. The rules set forth below are intended to provide employees with fair notice of what is expected of them. Violation of these rules may result in disciplinary action, up to and including termination of employment. BAWSCA reserves the right to proceed directly to any disciplinary action, without resort to prior disciplinary steps, when BAWSCA deems such action appropriate. These rules cannot and do not identify every type of unacceptable conduct or performance. Conduct not specifically listed below, which adversely affects or is otherwise detrimental to the interests of BAWSCA, or other employees, may also result in disciplinary action. The General Manager/CEO may take disciplinary action deemed appropriate in light of the particular facts and circumstances involved, including demotion or discharge. The General Manager/CEO may also propose, or participate in, fact-finding or mediation conducted by a neutral third party whenever he or she determines that it would be in the best interest of BAWSCA to do so.

The at-will status of BAWSCA employees is not altered by this notice, i.e., BAWSCA has the right to terminate employment at any time, with or without advance notice, and with or without cause.

##### **B. Job Performance**

Employees may be disciplined for poor job performance, including but not limited to the following:

- (1) Unsatisfactory work or production;
- (2) Unacceptable workplace demeanor, including interfering with the work performance of others;
- (3) Excessive absenteeism, tardiness or inattentiveness to job responsibilities;
- (4) Failure to follow instructions or BAWSCA policies or procedures; or
- (5) Failure to follow established safety regulations.

### C. Misconduct

Employees may also be disciplined for misconduct, including but not limited to the following:

- (1) Insubordination;
- (2) Theft;
- (3) Dishonesty;
- (4) Violating BAWSCA's Conflict of Interest Code;
- (5) Falsifying or altering BAWSCA records, including misrepresentations in an application for employment;
- (6) Violating rules, regulations or policies set forth in this handbook; or
- (7) Conviction of a crime that indicates unfitness for work or the possibility of a threat to the safety of BAWSCA employees, customers or property.

## **5. DRESS AND GROOMING STANDARDS**

BAWSCA considers the presentation of the BAWSCA image to the agencies it works with, its suppliers, and the public at large to be important. BAWSCA seeks not only good performance and conduct from its employees, but also expects them to observe high standards in their personal presentation. While BAWSCA has no formal dress code, it is expected that all employees dress in a manner consistent with good hygiene, safety, and good taste. Employees whose jobs require them to come in contact with the Board, other agencies' personnel, suppliers, or the public are expected to wear apparel that BAWSCA considers appropriate for dealing with the public.

## **6. PERFORMANCE REVIEW**

It is BAWSCA's goal that employees receive an annual written performance review within the last six weeks of each fiscal year. More frequent performance evaluations may be conducted at any time. The General Manager/CEO conducts the review and evaluation of the Financial Officer, the Secretary, and other officers. The General Manager/CEO or his/her designee may evaluate and conduct the review for all non-officer staff positions. The Board of Directors reviews and evaluates the General Manager/CEO's performance.

The purposes of performance reviews are: (1) to formally track progress toward completion of agreed-upon work plans; (2) to formally discuss issues contributing positively or negatively to the work setting or performance; (3) to acknowledge and formally recognize positive performance; (4) to notify the employee of performance deficiencies; and (5) to identify and implement any changes to the employee's work plan directed toward additional growth opportunities, clarity of expectations, or improved performance. Work plans may contain both items for action by the employee and items for action by the reviewer. Employees are given an

opportunity to propose their own goals and objectives, which will be discussed with the reviewer and modified as necessary. Performance will be measured in terms of timely completion or progress toward completion of agreed-upon work plans, other contributions to BAWSCA's objectives, quality of work, and general work habits.

## **7. OFFICE HOURS**

### **A. Regular Hours**

Regular office hours are from 8 a.m. to 5 p.m., Monday through Friday. Employees are generally expected to be at work during these hours except for lunch breaks, assignments away from the office, or arranged absences. The nature of the work and staff structure permits some flexibility in achieving this coverage. The General Manager/CEO has the authority to approve flexible work schedules within an 80-hour pay period.

### **B. Overtime**

Non-exempt employees shall be compensated for all hours worked in excess of 8 straight-time hours in one workday or 40 hours per week unless an alternative schedule consistent with State and Federal Wage and Hour Law is approved by the General Manager/CEO. Overtime pay is computed on the basis of 1.5 hours for every hour of overtime worked and may be taken as pay or as compensatory time off, provided that compensatory time off is taken within the same payroll period as it is earned.

Exempt employees shall not be eligible for overtime pay or compensatory time off unless such provisions have been incorporated in an employment contract.

### **C. Time Cards**

All non-exempt personnel are required to complete an accurate time card of hours worked, which must be approved by the employee's immediate or higher supervisor. The time cards shall show actual hours worked, and exact starting and stopping times.

## **8. PAY PERIOD**

All full-time employees are paid every two weeks. If a payday falls on a holiday or weekend, paychecks will be issued on the preceding workday. Salary advances are issued only in situations in which an employee will be on paid vacation on a particular payday and prior approval for the advance has been received. Employees have the option of receiving a check or direct deposit, or a combination of the two.

## **9. HOLIDAYS AND VACATION LEAVE**

Holidays and vacation leave benefits described in this section apply to both full-time and part-time staff who are regular employees.

A. Holidays

The following are recognized as paid holidays:

New Year's Day (January 1)	Veterans' Day (November 11)
Martin Luther King, Jr. Day (3 <sup>rd</sup> Monday in January)	Thanksgiving Day (4 <sup>th</sup> Thursday in November)
Presidents' Day (3 <sup>rd</sup> Monday in February)	Day after Thanksgiving
Memorial Day (last Monday in May)	Christmas Eve (December 24)
Independence Day (July 4)	Christmas Day (December 25)
Labor Day (1 <sup>st</sup> Monday in September)	

When a holiday falls on a Sunday, the following Monday will be observed. When a holiday falls on a Saturday, the preceding Friday will be observed.

In addition to the foregoing recognized paid holidays, each employee receives up to two floating holidays per calendar year. The maximum number of unused floating holidays that an employee may accrue is two days, at which point the employee will cease to accrue floating holidays until the balance is reduced below two. Floating holidays must be approved in the same manner as a vacation request, scheduled in advance, and taken as a full day.

B. Vacation

BAWSCA provides vacation benefits ("Vacation Leave") to regular employees to enable them to take paid time off for rest and relaxation. BAWSCA believes this time is valuable for employees in order to enhance their productivity and to make their work experience with BAWSCA personally satisfying.

Regular employees are eligible to accrue Vacation Leave based on their length of continuous service, measured from their date of hire by BAWSCA or, for those employees previously employed by the San Francisco Bay Area Water Users Association (BAWUA), from their date of hire by BAWUA. Regular full-time employees accrue Vacation Leave according to the following schedule:

<u>Continuous Years of Service</u>	<u>Vacation Leave Accrual Rate (Days/Year)</u>
1 through 5	10 days
6	15
7	16
8	17
9	18
10	19
11 and over	20

Regular part-time employees accrue Vacation Leave according to the above schedule on a pro-rata basis.

The maximum balance of unused Vacation Leave is 200 hours (25 days). Once an employee has accrued 200 hours of Vacation Leave, no further Vacation Leave is earned until the balance accrued is reduced below 200 hours through use of Vacation Leave.

#### C. Vacation Accrual

Vacation Leave accrues beginning on the first working day of the month if the employee is hired between the 1<sup>st</sup> and the 15<sup>th</sup> day of the month, and on the first working day of the month following if the employee is hired between the 16<sup>th</sup> and last day of the month.

#### D. Vacation Approval and Scheduling

Vacation Leave may not be taken until satisfactory completion of the six months' introductory period absent approval of the General Manager/CEO. Vacation schedules must be submitted to an employee's immediate supervisor for approval. Employees must request permission for Vacation Leave from their immediate supervisor not less than one week in advance for absences of less than three days and not less than two weeks in advance for absences of three or more days. In order to avoid disruption of operations or personal inconvenience, long periods of vacation should receive approval as far in advance as possible. No more than 160 hours (20 days) of Vacation Leave may be taken at one time.

Upon termination of employment, employees will be paid for any unused Vacation Leave balance, up to the maximum accrued balance of 200 hours.

#### E. Unpaid Vacation Leave

Regular employees may be eligible for limited unpaid vacation leave, as follows:

- The sum of an employee's unpaid vacation leave, plus paid Vacation Leave accrued with BAWSCA, shall not exceed a maximum balance of 200 hours. To the extent accrual of paid Vacation Leave would cause an employee to exceed the 200 hour maximum, the employee's unpaid vacation leave shall be reduced and replaced with paid Vacation Leave.
- An employee who has both unpaid vacation leave and paid Vacation Leave may elect to use such unpaid vacation leave, paid Vacation Leave, or any combination of both, for an approved vacation.
- All unpaid vacation leave shall expire on the earlier of (1) the two-year anniversary of the employee's employment commencement date with BAWSCA, or (2) the termination of the employee's BAWSCA employment. Under no circumstance will employees be paid or otherwise reimbursed for unpaid vacation leave.
- Unpaid vacation leave shall be subject to the "Vacation Approval and Scheduling" provisions set forth above.

## F. Voluntary Vacation Leave Donation Program

In the event that an employee is incapacitated by a catastrophic injury or illness and has exhausted all available paid leave (including vacation and sick leave), the General Manager/CEO may establish a time bank to which other employees may voluntarily contribute a portion of their earned vacation leave. The purpose of such a program is to assist employees who suffer a medically-certified, severe and disabling non-industrial condition resulting in an inability to work to remain on paid status after exhausting their own earned paid leave balance.

Donating employee may not reduce their balance of earned vacation below eighty (80) hours by reason of such donations. State and federal income tax on the value of leave donated shall be deducted from the recipient employee's pay at the time of crediting.

## G. Administrative Leave

BAWSCA provides paid administrative leave (Administrative Leave) for regular exempt employees. Such employees shall receive 40 hours (five days) of Administrative Leave per calendar year; provided, however, that the 40 hours (five days) shall be pro-rated for part-time employees, and shall also be pro-rated in the first year of BAWSCA employment for employees who start employment after January 1. Administrative Leave shall not accrue from year to year nor be subject to any cash-out provisions.

Non-exempt employees are not eligible for Administrative Leave.

# 10. FAMILY MEDICAL LEAVE

## A. Leave Policy

Under the federal Family and Medical Leave Act ("FMLA") and the California Family Rights Act ("CFRA"), employees may take time off as provided in this policy, so long as the employee has worked for BAWSCA for at least 12 months, and for at least 1,250 hours in the last 12 months. .

## B. Reasons for Leave

Eligible employees may take up to 12 weeks of unpaid Family and Medical Leave within any rolling 12-month period (measured backward from the date of the commencement of any Family and Medical Leave) and be restored to the same or a comparable position upon the employee's return from leave for any of the following reasons:

- (1) the birth of a child and to bond with or to care for such child;
- (2) the placement of a child with the employee for adoption or foster care and to bond with or to care for the newly-placed child;
- (3) to care for a spouse, domestic partner, child, or parent ("covered relation") with a serious health condition;

- (4) the employee's own serious health condition that renders him/her unable to perform an essential function of his/her position;
- (5) "qualifying exigency leave," where the employee's spouse, child, or parent is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation, and leave is needed for certain qualifying exigencies, such as attending certain military events, addressing certain legal or financial arrangements, arranging for alternative childcare, attending post-deployment reintegration briefings or attending certain counseling sessions (qualifying exigency leave is not covered under the CFRA).

In addition, an eligible employee who is the spouse, parent, child, or next of kin of a covered servicemember may take up to 26 weeks of unpaid, job-protected FMLA leave during a single 12-month period to care for a covered servicemember. A covered servicemember is a current member of the Armed Forces, including the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in an outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties. This leave is called "military caregiver leave" and is not covered under the CFRA.

Military caregiver leave is a one-time benefit allowing 26 weeks of leave during a single 12-month period (although an employee may be entitled to more than one period of military caregiver leave if the leave is to care for a different covered servicemember or to care for the same servicemember with a subsequent serious injury or illness, except that no more than 26 workweeks of leave may be taken within any single 12-month period). BAWSCA will begin counting the 12-month period on the first day of leave taken to care for the injured or ill servicemember. During the 12-month period when military caregiver leave is used, an employee is limited to a combined total of 26 weeks of FMLA leave for any reason. If a husband and wife both work for BAWSCA and are both eligible for FMLA, they are limited to a combined total of 26 workweeks of FMLA leave during a single 12-month period for military caregiver leave or a combination of qualifying exigency leave and military caregiver leave.

#### C. Time Off from Work Due to Employee's Disability Due to Pregnancy/Childbirth/Adoption

Time off from work because of disability due to pregnancy, childbirth, or adoption is counted as time used for FMLA leave, but is not counted as time used for CFRA leave. Pregnant employees may have the right to take up to four (4) months of Pregnancy Disability Leave (PDL) in addition to CFRA leave. Pregnant employees should review the Handbook's PDL policy and consult with the Office Manager regarding their individual situation.

#### D. Notice of Leave

If your need for Family and Medical Leave is foreseeable, you must give at least 30 days prior notice of the need for leave, preferably in writing. If this is not possible, you must at least give notice as soon as practicable (generally within one (1) to two (2) business days of learning of your need for leave), and you must comply with BAWSCA's usual and customary notice and

procedural requirements for requesting leave absent unusual circumstances. Failure to provide such notice may be grounds for delay of leave. Additionally, if you are planning a medical treatment, you must consult with BAWSCA first regarding the dates of such treatment. For foreseeable leave due to a qualifying exigency, notice must be provided as soon as practicable. Where the need for leave is not foreseeable, you should notify BAWSCA as soon as possible and practical.

Your notice must include sufficient information for BAWSCA to determine if the leave qualifies for FMLA/CFRA protection and for BAWSCA to determine the expected timing and duration of the leave.

#### E. Certification of a Serious Health Condition

If you are requesting leave because of your own or a covered relation's serious health condition, you must provide appropriate medical certification from the relevant health care provider within 15 calendar days after you request leave, if practicable. If you provide at least 30 days notice you should provide the medical certification before leave begins. Failure to provide requested medical certification in a timely manner may be grounds for delay of leave. The certification must include the name, address, phone and fax numbers of the health care provider and the type of medical practice, the approximate date on which the serious health condition began and its probable duration, a statement documenting the need for leave, and confirmation that, if you are the patient, you are unable to perform one or more of the essential functions of your job due to the serious health condition or, if a family member is the patient, confirmation that the family member is in need of care.

BAWSCA, at its expense, may require an examination by a second health care provider designated by BAWSCA, if it reasonably doubts the medical certification you initially provide for your own serious health condition. If the second health care provider's opinion conflicts with the original medical certification, BAWSCA, at its expense, may retain a third, mutually agreeable, health care provider to conduct an examination and provide a final and binding opinion.

BAWSCA may require subsequent medical recertification at the expiration of your previous certification. Failure to provide requested recertification within 15 days, if such is practicable, may result in delay of further leave until it is provided.

#### F. Certification for a Qualifying Exigency

If you are requesting qualifying exigency leave, you must provide appropriate certification within 15 calendar days after you request leave, if practicable. Failure to provide requested certification in a timely manner may be grounds for delay of leave. You must provide a copy of the military member's active duty orders or other documentation issued by the military that indicates that the military member is on active duty or call to active duty status in support of a contingency operation, and the dates of the member's active duty service.

You must also provide a signed statement of the facts regarding the qualifying exigency for which FMLA is requested, and provide the approximate date on which the qualifying exigency began or will begin, the beginning and end dates for the absence that is a single continuous

period of leave (or, for intermittent or reduced schedule basis leave, an estimate of the frequency and duration of the qualifying exigency), and if the qualifying exigency involves meeting with a third party, provide appropriate contact information for any third party with whom you are meeting and a brief description of the purpose of the meeting.

#### G. Certification for Military Caregiver Leave

If you are requesting leave to care for a covered service member with a serious injury or illness, you must provide medical certification that the serious injury or illness was incurred in the line of duty on active duty in the Armed Forces.

#### H. Reporting While on Leave

If you take leave because of your own serious health condition or to care for a covered family relation, you must contact BAWSCA ~~EMPLOYER~~ as directed regarding the status of the condition and your intention to return to work. In addition, you must give notice as soon as practicable (within two (2) business days if feasible) if the dates of leave change, are extended, or initially were unknown.

#### I. Leave is Unpaid

Family and Medical Leave is unpaid leave, although you may be eligible for short-term or disability payments, paid family leave and/or workers' compensation benefits under those insurance plans. You may elect to substitute any accrued paid time off (e.g., vacation, sick time, etc.) for unpaid Family and Medical Leave. The use of paid leave is subject to the terms of the BAWSCA's usual policies, procedures and restrictions applicable to that type of paid leave.

#### J. Medical and Other Benefits

For the first 12 weeks of an approved Family and Medical Leave, BAWSCA will maintain your health benefits as if you continued to be actively employed. If paid leave is substituted for unpaid Family and Medical Leave, BAWSCA will deduct your portion of the health plan premium as a regular payroll deduction. If your leave is unpaid, you must pay your portion of the premium as directed by the BAWSCA. Your health care coverage will cease if your premium payment is more than 30 days late. If your payment is more than 30 days late, we will send you a letter to this effect. If we do not receive your co-payment within 15 days of that letter, your coverage may cease. If you elect not to return to work for at least 30 calendar days at the end of the leave period, you may be required to reimburse BAWSCA for the cost of the health benefit premiums paid by BAWSCA for maintaining coverage during your unpaid leave.

During the unpaid portion of a family medical leave vacation accrual vesting will cease.

#### K. Intermittent and Reduced Schedule Leave

Leave because of a serious health condition, including pregnancy-related disabilities, or military caregiver leave, may be taken intermittently (in separate blocks of time due to a single health condition) or on a reduced-leave schedule (reducing the usual number of hours you work per workweek) if medically necessary. Qualifying exigency leave may also be taken intermittently

or on a reduced-leave schedule. Any leave taken for birth or placement of a child must be taken in blocks of at least two weeks (but you are allowed two exceptions), and must be taken within one year of the birth or placement of the child with the employee.

If leave is unpaid, BAWSCA will reduce your salary based on the amount of time actually worked. In addition, while you are on an intermittent or reduced leave schedule, BAWSCA may temporarily transfer you to an available alternative position that better accommodates your recurring leave and has equivalent pay and benefits.

#### L. Returning from Leave

If you take leave because of your own serious health condition, (except if you are taking intermittent leave) you are required to provide medical certification from your health care provider that states that you are able to resume work and that addresses your ability to perform the essential functions of your job. Employees failing to provide the return-to-work medical certification form will not be permitted to resume work until it is provided.

Under most circumstances, an employee who returns from a Family and Medical Leave will be reinstated to his or her original job or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions. However, an employee has no greater right to reinstatement than if she or he had been continuously employed rather than on leave. In addition, employees who do not return to work are not entitled to an accrual of seniority or employment benefits that may have occurred during a leave period.

### **11. PREGNANCY DISABILITY LEAVE**

Any employee who is disabled on account of pregnancy, childbirth or related conditions may take a pregnancy-related disability unpaid leave for the period for actual disability, up to four (4) months. This leave is in addition to any FMLA leave to which the employee may be entitled under the Family and Medical Leave Act provision on page 15. Duration of the leave will be determined by the advice of the employee's physician. The four (4) months of leave includes any period of time for actual disability caused by the employee's pregnancy, childbirth, or related medical condition. This includes leave for severe morning sickness and prenatal care. Leave does not need to be taken in one (1) continuous period of time and may be taken intermittently, as medically necessary. Leave may be taken in increments of one (1) hour.

Employees who need to take pregnancy disability leave must provide at least verbal notice sufficient to notify BAWSCA that the employee needs to take a pregnancy disability leave and/or transfer (discussed below). The verbal notice should include the anticipated timing and duration of the leave or transfer. If the need for the leave or transfer is foreseeable, employees must provide at least thirty (30) days advance notice before the pregnancy disability leave or transfer is to begin. Employees must consult with their supervisor or the Business Department regarding the scheduling of any planned medical treatment so as to minimize disruption to BAWSCA's operation. Any such scheduling is subject to the approval of the employee's health care provider. If thirty (30) days advance notice is not possible, notice must be given as soon as practical.

Pregnancy disability leave is unpaid. An employee taking pregnancy-related disability leave may substitute any accrued PTO for her leave. The substitution of paid leave for pregnancy-related disability leave does not extend the total duration of the leave to which an employee is entitled. Pregnancy leave usually will begin when ordered by the employee's health care provider. The employee must provide BAWSCA with a certification from her health care provider. The certifications indicating disability should include the date on which the employee became disabled due to pregnancy, the probable duration of the period(s) of disability, and a statement that, due to the disability, the employee is unable to perform one (1) or more of the essential functions of her position without undue risk to herself, the successful completion of the pregnancy, or to other persons. The employee's health care provider must release the employee to return to work.

An employee returning from a pregnancy disability leave will be returned to the same or comparable position, consistent with applicable law, but the employee has no greater right to reinstatement to the same position during the pregnancy leave period.

## **12. SICK LEAVE**

BAWSCA provides income continuation ("Sick Leave") to regular employees in the event of a personal illness, illness of a child, parent, spouse, domestic partner, parent of a spouse or domestic partner, dependent or foster relative living in the employee's home.

At the start of employment, all regular employees are credited with 12 days (96 hours) of Sick Leave for the ensuing year of employment; the 12 day (96 hour) amount is pro-rated for regular part-time employees.

Following the first-year anniversary of their BAWSCA employment, regular employees are eligible to accrue Sick Leave at the rate of one day (8 hours) per month. This accrual rate is pro-rated for regular part-time employees. There is no limit on the amount of Sick Leave that may be accrued, but it may not be used in advance of accrual. Unused Sick Leave is not reimbursed at termination of employment.

Use of Sick Leave by regular part-time employees is subject to the same provisions as for full-time employees, except that Sick Leave may only be used in connection with scheduled work days.

Any absences to be charged to Sick Leave must be reported to the employee's immediate supervisor as early as possible on the first day of absence.

Employees who use all of their available Sick Leave time will need either to use available vacation time for additional time off, or take leave without pay.

## **13. WORKERS' COMPENSATION CLAIMS AND LEAVE OF ABSENCE**

BAWSCA maintains statutorily required workers' compensation insurance, and provides leaves of absence for industrial injuries as required by law. Employees injured on the job should

contact the General Manager/CEO, or his/her designee, who will provide the necessary forms and information concerning BAWSCA's workers' compensation insurance.

#### **14. BEREAVEMENT LEAVE**

Regular full-time employees who have experienced the loss of a loved one are eligible for paid leave per occurrence, as follows:

Loss of an immediate family member:	24 hours (3 workdays)
Loss of other family relative:	8 hours (1 workday)

Immediate family is defined as the employee's spouse, domestic partner, children, parents, grandparents, parents of spouse or domestic partner, brother or sister, and dependents or foster relatives living in the employee's home.

An additional eight hours of paid leave will be provided in the event a funeral for a member of the employee's immediate family is more than 300 miles away.

#### **15. JURY DUTY/WITNESS DUTY LEAVE**

An employee who is required by law to serve on jury duty or is subpoenaed as a witness to appear before a court, public body or commission will be given time off from work.

While serving in such a capacity, a regular full-time employee will be paid his/her regular salary and will accrue other benefits as if on the job. Paid time off for jury or witness duty is limited to a maximum of 15 working days in one year, unless the employee chooses to use earned vacation leave. Thereafter, such leave shall be without pay.

An employee who has been summoned must notify his/her supervisor immediately so that arrangements can be made for coverage of the employee's assignments during his/her absence. Any payments to the employee for his/her jury service (other than mileage reimbursement) while on paid Jury/Witness Duty Leave must be endorsed over to BAWSCA and will constitute proof of jury/witness service. If the employee is on unpaid leave or using Vacation Leave to complete a jury/witness service commitment, any payments received for such period do not have to be paid to BAWSCA.

The provision of paid time off for jury/witness duty does not apply to court appearances in which the employee is a party.

#### **16. OTHER LEAVES REQUIRED BY LAW**

Eligible employees will be granted other leaves of absence as required by law for the purpose of fulfilling any required legal or military obligation or any other legally required time off (e.g., time off to vote in a statewide election, for a parent to appear at certain school activities, or maternity leave, etc.). Employees must provide reasonable advance written notice of any need for such leave. Such leave will be unpaid for non-exempt employees and for exempt employees

who perform no work in a particular workweek. =Employees on military leave of absence. may use accrued vacation time in lieu of unpaid leave for all or a portion of the leave of absence

## **17. HEALTH PROGRAMS & EMPLOYEE ASSISTANCE PROGRAM**

The following health programs are currently offered to regular full-time employees and to regular part-time employees who meet certain minimum service requirements:

- Group Comprehensive Major Medical Plans under the California Public Employees' Retirement System (CalPERS) Health Benefits Program ("PERS health")
- Group Dental Plan
- Group Vision Care Plan
- Employee Assistance Program

For eligible employees, BAWSCA pays for the employee's PERS health premium up to BAWSCA's monthly contribution cap. In addition, BAWSCA pays premiums associated with the dental and vision plans, and those associated with the employee assistance program. BAWSCA's practice of paying premiums is subject to change as provided in Section 22. Upon request, more detailed information on the current programs, including any premium-contribution caps, is available from BAWSCA.

## **18. INSURANCE BENEFITS**

### **A. Workers' Compensation Insurance**

All employees are covered by Workers' Compensation Insurance, the cost of which is fully paid by BAWSCA. This insurance provides certain benefits to employees who suffer an injury on the job. Any job-related injuries or illness, however minor, must be reported to your supervisor immediately. You are required to give complete details of any such injury or illness in order that a complete report can be prepared. Forms for filing a Workers' Compensation claim can be obtained from the General Manager/CEO or his/her designee.

### **B. Life/Accidental Death and Dismemberment/Long-Term Disability/Short-Term Disability**

BAWSCA currently provides Life/Accidental Death and Dismemberment, and Short-term and Long-term Disability insurance for regular full-time employees. Part-time employees who meet certain minimum service requirements also are eligible for these insurance benefits. Further information regarding insurance benefits is available on request from BAWSCA.

## **19. RETIREMENT BENEFITS**

Regular full-time employees, and regular part-time employees who meet certain minimum service requirements, automatically participate in a retirement plan offered by BAWSCA via the California Public Employees' Retirement System (CalPERS). Each year, BAWSCA contributes

a percentage of every eligible employee's pay to the plan (variable from year to year), and each such employee contributes 7% of his/her compensation (in lieu of Social Security withholding). The CalPERS retirement plan is a defined benefit plan, meaning that benefits under the plan generally are paid in fixed periodic amounts upon retirement, in amounts based upon the employee's contributions, salary history and years of service.

Subject to PERS eligibility requirements, BAWSCA pays premiums associated with PERS health coverage of eligible retirees, up to BAWSCA's monthly contribution cap. PERS health is the only health benefit provided by BAWSCA to retirees. Retirees are not eligible for the dental or vision plan, nor are they eligible for the employee assistance program. Upon request, more detailed information on the current programs, including any premium-contribution caps, is available from BAWSCA.

## **20. DEFERRED COMPENSATION PLAN**

All regular employees are eligible to participate in an eligible deferred compensation plan, or a "457 plan," sponsored by BAWSCA. Employees can elect to contribute a portion of their BAWSCA compensation to the plan, up to certain limits imposed under tax laws. Amounts contributed to the plan, which are deducted directly from payroll, are invested at the direction of either the employee or BAWSCA among investment options available under the plan. Generally, all contributions to the plan, and related earnings, are not subject to tax until distribution. With certain limited exceptions, amounts under the plan cannot be distributed until termination of BAWSCA employment. Further information regarding the 457 plan is available on request from BAWSCA.

## **21. RIGHTS AND BENEFITS ESTABLISHED BY INSURANCE POLICIES AND CONTRACTS**

No independent rights or benefits are created by this handbook. The insurance policies and contracts referred to in Sections ~~15, 16, 17 and 18~~ 17, 18, 19 and 20 establish such rights and benefits, and employees should consult the terms of such policies and contracts for authoritative statements of such rights and benefits.

## **22. MODIFICATION OF BENEFITS**

BAWSCA reserves the right to modify, change or terminate benefits as business needs may require and to the greatest extent permitted under the law.

## **23. EXPENSE REIMBURSEMENT**

### **A. Reimbursement Categories**

When employees are required to travel on BAWSCA business, the following expenses are reimbursable or will be paid directly by BAWSCA, as appropriate:

- (1) Transportation fare, mileage for use of private cars, auto rental, bridge tolls, parking, and taxi charges must be recorded and receipts provided.
  - a. Travel by public conveyance (air/rail/bus, etc.) shall be purchased or reimbursed at the most economical fare available, except as authorized by the General Manager/CEO (or, in the case of the General Manager/CEO's travel, by the Board of Directors). Copies of airline, bus or rail tickets must be attached to the expense report to obtain reimbursement for travel.
  - b. If an employee elects to travel by means other than air, he/she will be reimbursed only for actual expenses up to the maximum allowable airfare.
  - c. Mileage reimbursement for the use of private cars shall be at the prevailing Internal Revenue Service allowance. An employee who receives an auto allowance may not claim mileage reimbursement without Board authorization.
- (2) Lodging when an overnight absence from the employee's home is required.
  - a. The lodging allowance is for the single occupancy rate. Added cost incurred for multiple accommodations such as for the employee's spouse or family are not reimbursable. In such instances, the difference must be deducted from the receipt or voucher attached for reimbursement.
  - b. Lodging will be reimbursed at reasonable business and government room rates for the area visited. Any additional expense for premium service or accommodations must be borne by the employee.
- (3) Registration fees, meals, and related expenses incurred in connection with conferences, training courses or other activities when attendance is to the benefit of BAWSCA.
- (4) Membership cost, meals and related expenses resulting from specific affiliations with civic, professional or other associations the Board has determined to be advantageous to BAWSCA.
- (5) Meal expenses of officers or staff will be permitted under the following conditions:
  - a. When overnight absence from BAWSCA's normal area of operations is required;
  - b. When an employee or authorized representative has a business meeting during a normal meal period regarding matters of direct interest to BAWSCA. The costs of the meal, number of persons served, and the gratuity are to be shown on a receipt which will be attached to an expense reimbursement claim. Alcoholic beverages are not a reimbursable expense; and
  - c. As otherwise directed by the Board in the interest of BAWSCA.

In the context of this reimbursement provision, “employee” or “authorized representative” shall mean any person employed by BAWSCA either full-time or part-time, or any other person who has been authorized by the Board or the General Manager/CEO to represent BAWSCA at a specific meeting.

#### B. Allowances, Limitations, Exclusions

On business trips requiring an overnight stay, an employee may choose to be reimbursed for meal and travel incidentals on the basis of either \$50 per diem or itemization of actual expenses. The per diem will be allowed in full on the day of departure and on the day of return without regard to the times of departure or arrival or meals provided by a conference. Only one method of reimbursement for meals and incidentals may be used for each trip.

#### C. Claims Procedure

Claims for reimbursement shall be submitted on an Expense Report Form either monthly or upon completion of a trip. The report should include a list of expenditures and their purpose, with documentation of each expense attached. All expenditures over \$10.00 must be documented.

The General Manager/CEO or his/her designee shall review the Expense Reports to determine the need, appropriateness and reasonableness of each item of expense and, upon approval, forward the report for payment.

### **24. DRUG-FREE WORKPLACE GUIDELINES**

BAWSCA maintains a drug-free workplace in accordance with the provisions of the California Drug-Free Workplace Act of 1990 and the federal government’s Drug-Free Workplace Act of 1988. These acts require local government recipients of grants to publish a statement prohibiting controlled substances in the workplace. To comply with these acts, and to reflect BAWSCA’s position on alcohol and drug problems, the following guidelines have been established. These guidelines are intended to deter informal practices that may exist in connection with alcohol and drug problems, especially those that lead to the cover-up and protection of the abuser. For purposes of these guidelines, an alcohol or drug problem exists when consumption of, or use of, alcohol or drugs interferes with job performance and/or attendance.

While BAWSCA has no intention of intruding into the private lives of its employees, involvement with alcohol and drugs on and off the job can take its toll on job performance and employee safety. Our concern is that employees are in a condition to perform their duties safely and efficiently, in the interests of their fellow workers and the public. Moreover, substance abuse in the workplace can cause a number of other work-related problems, including absenteeism and tardiness, substandard job performance, increased workloads for co-workers, and behavior that disrupts other employees.

In accepting employment, each employee certifies that they agree to abide fully by these guidelines and acknowledge that any violation may result in serious disciplinary action, up to and including the possibility of immediate termination.

- (1) No employee will illegally manufacture, distribute, dispense, possess or be under the influence of alcohol or drugs while at the workplace. Discipline may be imposed for violations of these guidelines, including termination. Prescription medication and over-the-counter medication taken in connection with a medical condition of the employee, as directed, are excluded from these guidelines. However, the employee shall notify BAWSCA in the event such medication has an effect on the employee's performance. BAWSCA officials receiving such drug use information must keep it confidential, as contemplated by both state privacy laws and these guidelines.
- (2) Any employee convicted for violating any state or federal criminal drug law by an action committed in the workplace must notify BAWSCA within five calendar days of the conviction. When required by federal law, BAWSCA will notify any federal agency with which it has grants or contracts, of any employee who has been convicted of violations of federal drug statutes, if the violations occurred in the workplace.
- (3) It is the responsibility of each employee to adhere to these guidelines. Employees who think they may have an alcohol or drug use problem are urged to voluntarily seek confidential assistance from the Employee Assistance Program, their personal medical insurance plan or substance abuse treatment program. Access to the Employee Assistance Program is strictly confidential.
- (4) It is the responsibility of management/supervisory staff to notice changes in work behaviors and patterns that adversely affect job performance. Management/supervisors are not to attempt to diagnose alcohol or drug problems but are to document, in written form, work-related incidents (e.g., attendance or safety) and are to refer employees whose work performance has deteriorated to BAWSCA's Employee Assistance Program. Participation in the Employee Assistance Program is not mandatory, and is intended to be a constructive tool in improving an employee's performance. Nothing in these guidelines changes the at-will status of BAWSCA employees, or limits BAWSCA's ability to discipline or dismiss an employee in appropriate circumstances.
- (5) If an employee is referred to the Employee Assistance Program, it will be the responsibility of the employee to seek diagnosis and to cooperate with the prescribed treatment, if treatment is recommended. Failure to pursue the referral to the Employee Assistance Program, or failure to follow prescribed treatment, may be considered if problems in job performance or attendance persist.
- (6) Information and records of employees with an alcohol or drug problem will be preserved in the same manner as all other confidential records.
- (7) The social stigma often associated with alcohol and drug problems is inappropriate and is an impediment to effective treatment. BAWSCA expects that these guidelines will encourage self-referral of employees who suspect that they may have an alcohol or drug problem.

The foregoing constitutes BAWSCA's ongoing drug-free awareness program.

## **25. PERSONNEL RECORDS AND MEDICAL RECORDS**

The General Manager/CEO shall maintain personnel files for all current employees as provided by law. They shall be maintained at BAWSCA's central office. All personnel files are confidential and shall be available only to the employee, persons authorized by the employee, BAWSCA's legal counsel, and persons authorized by the General Manager/CEO. The General Manager/CEO shall determine the types of information to be included in a personnel file. The General Manager/CEO, or his/her designee, shall process all material to be placed in a personnel file (i.e., make sure designated documents are placed in personnel file).

Employees wishing to inspect their personnel files shall contact the General Manager/CEO. Requests for copies of material in a personnel file must be made in writing.

Access to personnel files shall be strictly controlled by the General Manager/CEO:

- They shall be reviewed in the office where the files are maintained unless otherwise approved in writing by the General Manager/CEO;
- Nothing may be removed from personnel files without the written approval of the General Manager/CEO; however, employees may make copies of the documents in their files which contain their signature.
- They shall be reviewed and replaced within the shortest time possible; and
- Other than the General Manager/CEO, and BAWSCA's legal counsel, only management personnel with a "need to know" may, with the General Manager/CEO's authorization, review an employee's personnel file.

Medical information received from a provider of an employee's health care, and information obtained in a medical examination conducted on BAWSCA's behalf, shall be kept in a file separate from other personnel files and treated as a confidential medical record.

Notwithstanding BAWSCA's policies and efforts to maintain employee privacy, BAWSCA may be required to produce personnel and medical information to third parties pursuant to lawful subpoena, search warrant, court order, administrative process, or when otherwise specifically required by law. Nothing in this policy shall prohibit BAWSCA's lawful use of relevant information in a lawsuit, arbitration, grievance, or other proceeding to which BAWSCA and an employee are parties.

Employees should inform the General Manager/CEO immediately whenever there are changes to personal data such as address, telephone number, persons to contact in case of an emergency, etc.

## **26. POLITICAL ACTIVITIES OF EMPLOYEES**

BAWSCA respects the right of its employees to engage in political activities on their own time. But when engaging in political activities, employees shall make it clear that they are acting as individuals and not as representatives of BAWSCA.

BAWSCA employees shall not:

- Conduct political activities during duty hours;
- Solicit campaign support or contributions during duty hours; or
- Use BAWSCA equipment for the production or reproduction of campaign materials.

## **27. OTHER EMPLOYMENT**

Employees may receive compensation for outside activities as long as such activities are not inconsistent, incompatible, in conflict with, or hostile to the employee's duties or to the duties, functions and responsibilities of BAWSCA.

Outside paid activities are incompatible with BAWSCA employment if they require time periods that interfere with the proper, efficient discharge of the employee's duties, if they entail compensation from an outside source for activities that are part of the employee's regular duties, or if they involve using for private gain BAWSCA's name, prestige, time, facilities, equipment or supplies.

## **28. EQUAL EMPLOYMENT OPPORTUNITY**

BAWSCA is committed to non-discriminatory practices in employment. Employees and job applicants shall not be discriminated against on the basis of race, color, religious creed, national origin, ancestry, age, sex, marital status, actual or perceived sexual orientation, gender identity, pregnancy, physical or mental disability, medical condition, veteran status, family care or medical leave status, genetic information or any other basis protected by federal or state law. This policy applies to all areas of employment, including recruitment, hiring, training, transfer, promotion, compensation and benefits.

## **29. ACCOMMODATING PERSONS WITH DISABILITIES**

Physically or mentally disabled employees or applicants may request reasonable accommodation. Upon receiving a request to reasonably accommodate the physical or mental disability of a BAWSCA employee or qualified job applicant, the General Manager/CEO, or his/her designee, shall:

- (1) Determine the essential functions of the job;
- (2) Consult with the employee or applicant to determine the precise limitations, if any, and how they may be mitigated;

- (3) With the employee or applicant's help, review the request for accommodation, identify potential means for providing accommodation, and assess their effectiveness; and
- (4) If possible, develop a plan for the accommodation that would satisfy the employee or applicant's concerns without imposing undue hardship on BAWSCA.

### **30. POLICY AGAINST HARASSMENT**

BAWSCA is committed to providing a workplace free of harassment based on such factors as race, color, religious creed, national origin, ancestry, age, sex, marital status, actual or perceived sexual orientation, gender identity, pregnancy, physical or mental disability, medical condition, veteran status, and family care or medical leave status, genetic information or any other basis protected by federal or state law. BAWSCA will not tolerate harassment of employees by officers, supervisors, or co-workers.

Harassment includes conduct that creates an intimidating, offensive, or hostile working environment or that interferes with work performance. Such conduct constitutes harassment when (1) submission to the conduct is made either an explicit or implicit condition of employment, (2) submission to or rejection of the conduct is used as the basis for an employment decision, or (3) the harassment interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

Harassment can take many forms and includes, but is not limited to, impeding another's movement or otherwise physically interfering with normal work, assault, making slurs, jokes, gestures, pictures, drawings, or cartoons based upon an employee's race, color, religious creed, national origin, ancestry, age, sex, marital status, actual or perceived sexual orientation, gender identity, pregnancy, physical or mental disability, medical condition, veteran status, family care or medical leave status or genetic information.

Sexually harassing conduct includes all of the above, as well as other unwelcome conduct such as requests for sexual favors, unwelcome sexual advances, and conversation containing sexual comments. Sexually harassing conduct can be by a person of either the same or opposite sex.

Any incident of harassment should be reported promptly to the General Manager/CEO, who will be responsible for investigating the matter either directly or through a designee. Managers who receive complaints or who observe harassing conduct should inform the General Manager/CEO immediately. An employee is not required to complain first to the General Manager/CEO if that person is the individual who is harassing the employee. Instead, the employee may report the harassment to his or her responsible supervisor, or any BAWSCA officer.

Every reported complaint of harassment will be investigated thoroughly, promptly, and in accordance with BAWSCA's Complaint Procedure. If a violation of this policy is found to have occurred, BAWSCA will discipline the offender. Discipline can range from a warning up to and including termination, depending on the circumstances.

## **31. POLICY AGAINST RETALIATION**

BAWSCA prohibits illegal retaliation. “Retaliation” means an adverse employment action (which for this section may include hiring and promotion decisions) because an employee has made a complaint or charge of discrimination or harassment, has participated in an investigation of such a complaint or charge, has filed a charge with state or federal authorities, or has engaged in some similar protected activity. Retaliation by any employee or supervisor against any employee (or job applicant) who makes a complaint or charge, or any employee or applicant who participates in the investigation of a complaint of harassment will not be tolerated.

## **32. COMPLAINT PROCEDURES**

BAWSCA has established these Complaint Procedures for internal resolution of employees’ work-related complaints, including complaints of discrimination, harassment and/or retaliation.

### **A. Filing of Complaint**

Employees should file complaints with the General Manager/CEO as soon as possible after the events that give rise to the employee’s work-related concerns. If the General Manager/CEO is absent or otherwise unavailable, or if the complaint is about the General Manager/CEO, employees should file complaints with any supervisor, or any BAWSCA officer. The complaint may be either oral or written, but should not be transmitted via e-mail. It should set forth in detail the facts involved in the employee’s complaint.

### **B. Investigation**

The General Manager/CEO will date and log all complaints and will send the employee an acknowledgment that the complaint is under review.

The General Manager/CEO (or designee) will investigate the complaint, meeting separately with the employee and with others who either are named in the complaint or who may have knowledge of the facts set forth in the complaint. BAWSCA will attempt to treat all internal complaints and their investigation as confidential. However, in the course of investigating and resolving internal complaints, some dissemination of information to others may be necessary or appropriate.

On completion of the investigation, the General Manager/CEO will orally report the findings and conclusions to the employee who filed the complaint.

### **C. No Retaliation**

If an employee has filed a complaint in good faith, the employee will not be disciplined or otherwise penalized because of the complaint, regardless of whether or not the complaint is sustained. If an employee believes that he or she is being retaliated against for making a complaint, the employee should immediately notify the General Manager/CEO, or any BAWSCA officer.

### **33. WORKPLACE VIOLENCE**

BAWSCA is committed to providing a workplace that is free from acts or threats of violence. This includes actual or threatened violence against co-workers, visitors, or any other persons who are either on BAWSCA premises or have contact with employees in the course of their duties. Employees who engage in or contribute to violent behavior, or who threaten others with violence, may be subject to disciplinary action, up to and including termination.

Threatening behavior includes (1) uninvited touching or other attempts to intimidate, instill fear, or harass other individuals, (2) verbal or written threats to harm another individual or harm property, (3) threatening gestures, (4) throwing objects, and (5) bringing weapons or firearms of any kind on BAWSCA premises or while conducting BAWSCA business.

Every verbal or physical threat of violence must be treated seriously and reported immediately to the General Manager/CEO. If the General Manager/CEO is absent or otherwise unavailable, employees should report the threat to any supervisor, or any BAWSCA officer.

### **34. OPEN-DOOR POLICY**

BAWSCA has an open-door policy that encourages employee participation in decisions affecting them and their daily professional responsibilities. Employees who have job-related concerns or complaints are encouraged to discuss them with their supervisor or the General Manager/CEO. BAWSCA believes that employees' concerns are best addressed through this type of informal and open communication.

Employees are encouraged to raise their concerns as soon as possible after the events that cause the concern. BAWSCA will attempt to keep all such expressions of concern and the results of any investigation confidential. But in the course of investigating the matter, some dissemination of information to others (including the Board of Directors) may be necessary or appropriate.

### **35. TECHNOLOGY USE AND PRIVACY**

BAWSCA provides various technology resources to employees in order to help them perform their job at BAWSCA. Failure to follow BAWSCA's policies regarding its technology resources may lead to disciplinary action, up to and including termination of employment. Moreover, BAWSCA may advise appropriate legal authorities of any violation of law by an employee.

#### **A. Definition of Technology Resources**

Technology resources are all electronic devices, software, and means of electronic communication including, but not limited to, personal computers and workstations, laptop computers, personal digital assistants, computer hardware such as disk drives and tape drives, peripheral equipment such as printers, modems, fax machines, and copiers, computer software applications and associated files and data, including software that grants access to external services, such as the Internet, electronic mail, telephones, cellular phones, pagers, and voicemail systems.

## B. Using BAWSCA's Technology Resources

BAWSCA's technology resources are provided for the purpose of conducting BAWSCA business. Employees may, however, use BAWSCA's technology resources for the following incidental personal uses so long as such use does not interfere with the employee's duties, does not conflict with BAWSCA's business, and does not violate any policy of BAWSCA:

- Employees may send and receive necessary and occasional personal communications, so long as personal communications do not include BAWSCA logos or references to BAWSCA;
- Employees may prepare and store incidental personal data (e.g., personal calendars, personal address lists, and similar incidental personal data);
- Employees may use the telephone system for brief and necessary personal calls that are chargeable as "local" calls to BAWSCA; and
- Employees may access the Internet for brief personal searches and inquiries, so long as such use does not interfere with the performance of their duties and provided that employees adhere to all other usage policies.

BAWSCA accepts no responsibility for loss, damage, destruction, alteration, disclosure, or misuse of any personal data or communications transmitted over or stored on BAWSCA's technology resources. BAWSCA accepts no responsibility for the loss or non-delivery of any personal electronic mail or voicemail communications or any personal data stored on BAWSCA property. BAWSCA strongly discourages employees from storing personal data on BAWSCA's technology resources.

## C. Examples of Prohibited Uses of BAWSCA's Technology Resources

Employees often use electronic mail for correspondence that is less formal than written memoranda. However, employees must not let informality lead to improper use. As set forth more fully in other sections of this handbook, BAWSCA does not tolerate discrimination or harassment based on race, color, religion, national origin, sex, actual or perceived sexual orientation, gender identity, genetic information or any other status protected by state and federal laws. Employees are prohibited from using BAWSCA's technology resources to transmit, receive, or store any information that is discriminatory or harassing in any way (such as, for example, sexually explicit or racial messages, jokes, cartoons, or Internet links).

Employees are also prohibited from using the technology resources to copy, retrieve, forward or send copyrighted materials unless the employee has the author's permission or is accessing a single copy only for the employee's reference.

Finally, employees may not use any of BAWSCA's technology resources for any illegal purpose, in violation of any BAWSCA policy, in a manner contrary to the best interests of BAWSCA, in any way that discloses confidential or proprietary information of BAWSCA or third parties, that is defamatory of any person or for personal or pecuniary gain.

#### D. No Expectation of Personal Privacy in Technology Resources

All messages sent and received, including personal messages, and all data and information stored on BAWSCA's electronic-mail system, voicemail system, or computer systems are BAWSCA's property, regardless of the content of the messages. BAWSCA may monitor, access or inspect all of its technology resources, including its computers, personal digital assistants, voicemail, and electronic mail systems, at any time, in its sole discretion. This includes reviewing an employee's personal use of BAWSCA's technology resources. This is the case even if the technology resources can be accessed only by entering a password, because passwords are intended only to prevent unauthorized access to information and do not confer any right of privacy on any employee. Employees are expected to maintain their passwords as confidential, and must not share passwords or access coworkers' systems without express authorization from the General Manager/CEO, or his/her designee.

Deleting or erasing information, documents, or messages maintained on BAWSCA's technology resources is often ineffective. All employees should understand that any information kept on BAWSCA's technology resources may be recalled electronically or recreated, regardless of whether it may have been "deleted" or "erased" by an employee. Because BAWSCA may periodically back-up all files and messages, and because of the way in which computers re-use file storage space, files and messages may exist that are thought to have been deleted or erased. Therefore, employees who delete or erase information or messages should not assume that such information or messages are confidential.

**ACKNOWLEDGEMENT OF RECEIPT OF HANDBOOK  
AND TERMS OF EMPLOYMENT**

I acknowledge that I have received a copy of BAWSCA's Personnel Handbook as amended through July 2012. I understand that I am responsible for reading the handbook and for complying with the policies set forth in the handbook. I understand that the policies contained in the handbook are not intended to create any contractual rights or obligations, express or implied, and that BAWSCA has the right to delete, amend, or interpret any of the provisions of the handbook at any time, and to add new provisions with or without notice. I also understand that if I have any questions regarding BAWSCA's policies or procedures, I should consult with the General Manager/CEO, or his/her designee.

I understand that my employment relationship with BAWSCA is "at-will," which means that both BAWSCA and I have the right to terminate employment at any time, with or without advance notice, and with or without cause. I also understand that the terms of my employment may be altered at any time, with or without cause, at the discretion of BAWSCA.

Employee Signature: \_\_\_\_\_

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

**Exhibit A:  
AGREEMENT**

THIS AGREEMENT is made as of this \_\_ day of \_\_ 20\_\_, by and between the **Bay Area Water Supply & Conservation Agency** ("Agency") and \_\_\_\_\_ ("Consultant").

WHEREAS, Agency desires to obtain on-call Human Resources (HR) services and has issued a Request for Proposals, dated \_\_\_\_\_, 20\_\_, 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/agreed to a scope of work, dated \_\_\_\_\_, 20\_\_, 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. The term of this Agreement will be for one year from the Notice to Proceed, with up to two (2) one-year option periods exercisable at Agency's sole discretion.

**3. COMPENSATION**

The Consultant agrees to perform all of the services included in Section 1 for a not to exceed amount of \_\_\_\_\_ (\$ \_\_\_\_\_), in accordance with the hourly rates in Exhibit B, and inclusive of all labor, materials, taxes, insurance, subcontractor costs, travel expenses, telephone costs, copying costs, profit, administrative and overhead fees, and all other costs and expenses incurred by Consultant. Consultant will submit to Agency a monthly invoice detailing the work performed in the previous month and number of hours, listed by task and person.

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.

On an annual basis, no later than 60 days before the start of a succeeding Agreement year, Consultant may, upon written request, prospectively adjust the rates of Consultant and its subcontractors, if any. Increases in future rates shall be limited, if requested, to the most recent Consumer Price Index for All Urban Consumers (CPI-U) for the San Francisco/Oakland/Hayward, CA

area available to Agency, or up to a maximum of 5 percent escalation, whichever is lower. The effective date of the CPI-U adjustment, if any, will commence either (1) the first day of the second and/or subsequent year(s) of the Agreement, or (2) the date of Consultant's request, whichever event is later. Upon written approval by Agency, the negotiated changes will remain in effect for the subsequent Agreement year. If Consultant does not submit a request at least 60 days before the start of the succeeding Agreement year, Consultant waives any CPI-U increase for that year.

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

Consultant will submit detailed monthly invoices at the end of each month describing the work performed, the personnel performing the work, and their applicable hourly rates of compensation, which will 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 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 subcontractor(s) is (are) approved by Agency for the following task(s):

- \_\_\_\_\_

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.

- \_\_\_\_\_

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 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.

## **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 who 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: Tom Smegal, CEO/General Manager

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

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 \_\_\_\_\_  
Chief Executive Officer

*[INSERT CONSULTANT NAME]* (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 \$500 within twelve months before or after 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 \$500 to any BAWSCA Board Member in the 12 months preceding the date of the submission of your proposal 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 agent on behalf of you or your company, anticipate or plan to make any political contribution of more than \$500 to any BAWSCA Board Member in the 12 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