



EAST BAY DISCHARGERS AUTHORITY  
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*A Joint Powers Public Agency*

**ITEM NO. 15**

**PERSONNEL COMMITTEE  
AGENDA**

**Tuesday, August 13, 2019  
2:30 p.m.**

**East Bay Dischargers Authority  
2651 Grant Avenue, San Lorenzo, CA 94580**

**Committee Members: Lathi (Chair), Mendall**

- P1. Call to Order**
- P2. Roll Call**
- P3. Public Forum**
- P4. General Manager's Travel Report**  
(The Committee will review the General Manager's annual travel report.)
- P5. Resolution Approving Amendments to the Personnel Policy**  
(The Committee will consider a resolution approving changes to the Personnel Policy to incorporate catastrophic leave and email protocols.)
- P6. Resolution Authorizing the General Manager to Issue a Change Order to Aerotek, Inc. for Temporary Administrative Assistant Services in the Amount of \$30,000 for a Total Not to Exceed Amount of \$47,600**  
(The Committee will consider a resolution authorizing the General Manager to amend the Purchase Order with Aerotek.)
- P7. Adjournment**  
(Any member of the public may address the Commission at the commencement of the meeting on any matter within the jurisdiction of the Commission. This should not relate to any item on the agenda. It is the policy of the Authority that each person addressing the Commission limit their presentation to three minutes. Non-English speakers using a translator will have a time limit of six minutes. Any member of the public desiring to provide comments to the Commission on an agenda item should do so at the time the item is considered. It is the policy of the Authority that oral comments be limited to three minutes per individual or ten minutes for an organization. Speaker's cards will be available in the Boardroom and are to be completed prior to speaking.)

(In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in an Authority meeting, or you need a copy of the agenda, or the agenda packet, in an appropriate alternative format, please contact the Administrative Assistant at the EBDA office at (510) 278-5910 or [kyambao@ebda.org](mailto:kyambao@ebda.org). Notification of at least 48 hours prior to the meeting or time when services are needed will assist the Authority staff in assuring that reasonable arrangements can be made to provide accessibility to the meeting or service.)

(In compliance with SB 343, related writings of open session items are available for public inspection at East Bay Dischargers Authority, 2651 Grant Avenue, San Lorenzo, CA 94580. For your convenience, agenda items are posted on the East Bay Dischargers Authority website located at <http://www.ebda.org>.)

**The next Personnel Committee meeting is scheduled on  
Tuesday, October 15, 2019, at 2:30 p.m.**

**ITEM NO. P4 GENERAL MANAGER’S TRAVEL REPORT**

**Recommendation**

For Committee information only - annual travel review.

**Background**

The General Manager (GM) has continued traveling locally as part of ongoing coordination between the Water Board and BACWA/CASA on issues including nutrients, toxics, chlorine residual limits, and climate change adaptation. The GM also plans to represent EBDA at several upcoming conferences and workshops.

**Local Travel – Ongoing**

<b>Who?</b>	<b>Where?</b>	<b>Why?</b>	<b>How Often?</b>
EBDA Member Facilities	Within District	Coordination/Problem Solving	1-5x per month
BACWA Board, Committees (permits, air, recycled water)	Oakland	Strategize on permitting, training, service issues for EBDA	2-5x per month
Nutrient Management Steering Committee	Richmond	Engage as a BACWA Board Member on Bay nutrient science and policy issues with Water Board and other regional agencies	Bi-Monthly
Regional Water Board	Oakland	Represent EBDA at informational and permit-relevant meetings	1-3x/month
State Water Board	Sacramento	Represent EBDA/BACWA interests at Board hearings/workshops	1-2x/quarter
Climate Adaptation Forums (BayCAN, CHARG, HASPA Master Plan)	Around the Bay	Represent EBDA in discussions related to shoreline management	1-3x/quarter

**Long-Distance Travel – FY 2019/20**

<b>Who?</b>	<b>Where?</b>	<b>Why?</b>	<b>When?</b>	<b>How Much?</b>
CASA Annual Conference	San Diego	Gather info on utility management trends, serve as member of Program Committee	August 21-23	\$1000
WEFTEC	Chicago	Gather info on technology and trends	September 23-25	\$2200
CASA Winter Conference	Indian Wells	Gather info on utility management trends, serve as member of Program Committee	January 21-23	\$1000

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<b>Who?</b>	<b>Where?</b>	<b>Why?</b>	<b>When?</b>	<b>How Much?</b>
California Society of Municipal Finance Officers ( <i>Tentative</i> )	Anaheim	Gather info on municipal finance trends, reporting and investment	January 28-30	\$1500
ISLE TAG Meetings	Orange County	Gather info on emerging technologies	1x/quarter	\$600
Water Research Foundation Leading Water and Wastewater Utility Innovation Project Workshop ( <i>Tentative</i> )	Louisville	Participate in workshop on innovation strategy and framework	April 2020	\$1000

**ITEM NO. P5 RESOLUTION APPROVING REVISIONS TO THE PERSONNEL POLICY**

**Recommendation**

Recommend adoption by the Commission of the proposed revisions to the Authority's Personnel Policy.

**Background**

EBDA's Personnel Policy provides direction for employee-related actions by the Board and Management. The Personnel Policy was last revised in October 2018. At the June 2019 Personnel Committee meeting, the Committee discussed the concept of adding a catastrophic leave policy, allowing employees to donate vacation leave to a fellow employee who has exhausted their own sick and vacation leave due to medical reasons. The concept was supported as a mechanism for employees to support each other through medical – and associated financial – challenges.

**Discussion**

In consultation with the Authority's legal counsel, staff is recommending addition of the following language to the Personnel Policy:

**Catastrophic Leave**

Full-time regular employees, except temporary, provisional and part-time employees, are eligible to receive catastrophic leave donations in the following circumstances:

- The employee must have exhausted all available leave (i.e. vacation and sick leave, floating holidays).
- The absence must be due to the employee's or their spouse, domestic partner, or child's life-threatening or debilitating illness, injury, or condition.

Employees may donate vacation leave on a voluntary basis. The employee making the donation must authorize in writing that a designated portion of his/her accrued vacation may be transferred from his/her leave account to the recipient employee's vacation account. Once made, donations are irrevocable.

All donated hours shall be converted to the donor's hourly rate, and the equivalent dollar amount shall be deposited and converted to hours at the recipient's hourly rate. Donors must retain a minimum of 80 hours of their own vacation leave.

This language was developed using examples from other Bay Area water and wastewater agencies. Many agencies exchange leave on an hour-for-hour basis rather than dollar-for-dollar. The financial differences in an hour-for-hour exchange are assumed to cancel out across large agencies. However, for a small agency such as

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EBDA, staff recommends using a dollar conversion to ensure that there is no cost to the agency.

In addition, staff has begun conducting research on updating the Authority's Records Retention Policy. Staff will bring more detail on that to the Commission in future meetings, however, there is one change to the Personnel Policy that staff recommends including at this time. Recent court rulings have held that emails that relate in some substantive way to public business are public records, subject to Public Records Act requests, even if the emails are from a personal email account. It can be difficult, however, to gather and produce records from private accounts. Therefore, an emerging best practice is for public agencies to establish and follow a policy that prohibits employees from conducting agency business on their personal account. Staff recommends adding the following sentence to the "Computers and E-mail" section of the Personnel Policy, which previously addressed the opposite issue of use of business email for personal activities:

Employees shall conduct Authority business only on their Authority e-mail account, not on personal e-mail accounts.

# Personnel Policy

Reviewed February 17, 2005  
Reviewed March 16, 2006  
Revised March 15, 2007  
Revised March 19, 2009  
Revised July 16, 2009  
Revised November 23, 2009  
Revised April 21, 2011  
Revised March 22, 2012  
Revised March 21, 2013  
Revised November 21, 2013  
Revised May 15, 2014  
Revised May 19, 2016  
Revised September 22, 2016  
Revised October 18, 2018  
Revised August 15, 2019

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## **SECTION I – DEFINITIONS**

Allocation	The assignment of a position to an appropriate class on the basis of the nature, difficulty and responsibility of duties actually performed.
Applicant	Any person who has made application for a position.
Authority	The East Bay Dischargers Authority.
Candidate	A qualified applicant who has been selected to participate in the selection process.
Class or Classification	A position or group of positions, the duties and responsibilities of which are sufficiently similar so that the same descriptive title, examples of duties and tests for fitness may apply.
Class Specification	A written description of duties, responsibilities and desirable qualifications for employment in a classification.
Commission	The East Bay Dischargers Authority Commission, the legislative and governing body of the Authority.
Compensation	The salary, wage, allowances and all forms of valuable consideration paid to any employee by reason of service in any position.
Demotion	A change of an employee from one position to any other position having a lower maximum salary.
Eligible	A person whose name is on an active employment list.
Employment List	A list of persons who may be considered for appointment to a specific position with the Authority.
Employee	A person officially appointed to a position in the adopted Classification Plan.
Examination	The selection procedure used to measure the relative fitness of persons applying for positions with the Authority.
General Manager	The General Manager of the Authority, as appointed by the Commission or his/hers duly designated representative.

Job Description	A written description of duties, responsibilities and desirable qualifications for employment in a specific position.
Part-time Position	A position to which an employee shall be assigned for less than forty hours per week.
Personnel Committee	A panel advisory to the Commission on personnel matters consisting of two members of the Commission.
Position	A group of current duties and responsibilities designated by the Commission as requiring the employment of one person.
Probationary Appointment	A working test period during which an employee selected from an employment list is required, by actual performance, to demonstrate fitness for the duties of the position to which appointed.
Promotion	A change of an employee from one position to another position that has a higher maximum salary.
Provisional Appointment	Appointment for a period not to exceed six months to a position for which no employment list exists.
Reallocation	Change in the assignment of a position from one existing class to a new class resulting from a change in the Classification Plan.
Regular Appointment	The type of status granted to an employee who has successfully completed a probationary period.
Seniority	The total length of satisfactory service of an employee within each specific class.
Suspension	Temporary separation of employment with or without pay.
Temporary Appointment	Assignment of an employee to a position for a period of up to one year.
Termination	Permanent separation of an employee from Authority service.
Unclassified Position	Certain management, professional or confidential positions designated by the Commission to fall outside the classified service and to be exempted from certain provisions of these Rules.

## **SECTION II – GENERAL PROVISIONS**

### ***Purpose***

The Personnel Policy is established to provide a comprehensive personnel system and procedure for its administration whereby the Authority may:

1. Establish consistent employment practices.
2. Provide guidelines for recruiting and selection of the best candidates.
3. Establish a fair and equitable compensation system.
4. Provide for the welfare of all employees.
5. Establish guidelines for separation of employment.

Employment under this Personnel Policy shall not constitute an employment contract, and the General Manager may interpret and implement the provisions included in this document as he/she deems appropriate. Any changes to this document must be in writing and must be adopted by resolution of the Commission. Copies shall be provided to employees so that they are aware of all changes to the Personnel Policy. No oral statements shall in any way change or alter the provisions of this Personnel Policy.

### ***Applicability***

This Personnel Policy shall apply to all employees of the Authority. In the case of conflicting language, an employment agreement shall supersede this Personnel Policy. The following list of persons are exempt from this document:

1. Commissioners of the Authority
2. Members of Committees advisory to the Commission
3. Persons engaged under contract to supply expert, professional, technical or other services
4. Volunteer personnel.

### ***Administration***

The Commission shall appoint, and may remove, a General Manager who shall have responsibility for and control of the affairs of the Authority and who shall, among other duties, administer the personnel system set forth herein, including preparation and maintenance of the Classification and Compensation Plans, all essential records required for maintenance of the system and application of the rules, and shall enforce the provisions herein and all other pertinent regulations, directives and policies.

The Commission shall appoint a Personnel Committee consisting of two members of the Commission, the function of which is to review and make recommendations on all

personnel matters coming before the Commission for action, including revision to the Classification or Compensation Plans and these Rules, and to hear appeals as indicated herein. Action by the Committee with respect to grievances (Section XVIII) shall be final and shall not require further action by the Commission unless appealed to the full Commission.

***Non-Discrimination (Equal Employment Opportunity)***

No person within the service of the Authority, or seeking entry thereto, shall be employed, promoted, demoted, suspended, discharged, in any way favored or discriminated against, or retaliated against for charging acts of discrimination in accordance with Federal Equal Employment Opportunity Laws (EEO) and State of California Department of Fair Employment and Housing Act. This includes but is not limited to the following protected classes and activities:

- Age (40 and over)
- Ancestry
- Citizenship
- Color
- Disability (mental and physical) including HIV and Aids
- Equal Compensation
- Denial of Family and Medical Care Leave
- Gender, Gender Identity, and Gender Expression
- Genetic Characteristics and Genetic Information
- Marital Status
- Medical Condition
- Military or Veteran Status
- National Origin
- Political Affiliation
- Race
- Religion
- Religious Creed
- Sex (which includes pregnancy, childbirth and medical conditions related to pregnancy or childbirth)
- Sexual Orientation
- Whistleblowing

The Authority is an equal opportunity employer and its personnel policies shall be administered in accordance with applicable state and federal law.

***Incompatible Activities***

No officer or employee of the Authority shall:

1. Participate in any political activity during working hours on the Authority premises.
2. Use for private gain or advantage the influence of an Authority position or the facilities, equipment or supplies of the Authority.
3. Solicit or accept any favors or gifts from persons, concerns or corporations who have, or seek to have, business contacts with the Authority.
4. Divulge confidential information to anyone to whom issuance of such information has not been authorized by the General Manager.
5. Participate in any employment or other activity which will prevent him/her from doing his/her Authority job in an efficient and capable manner, which brings discredit upon the Authority, or which might result in a conflict of interests between the employee's private interest and his/her official duties and responsibilities, or in any event which has not been approved by the General Manager.
6. Provide information or services to contractors or other persons, which would give a competitive advantage over others dealing with the Authority.

### ***Violation***

Violation of these Rules shall be grounds for rejection of application, removal from an eligible list, suspension, demotion, discharge or other discipline of employees deemed appropriate under the circumstances.

### ***Severability***

If any section, subsection, sentence, clause or phrase herein or any application thereof to any person or circumstance, is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Rules.

## **SECTION III – CLASSIFICATION PLAN**

### ***Preparation***

The General Manager may review the duties and responsibilities of all positions within the Authority service. All positions shall be grouped into classes and each class shall include those positions sufficiently similar in respect to their duties and responsibilities that similar requirements as to training, experience, knowledge, skills, personal qualities, and the same salary range may be made to apply with equity to all positions in the same class.

## ***Content***

The Classification Plan shall have written class specifications, which shall include concise descriptive titles, physical requirements and working conditions as required by the Americans with Disabilities Act, general descriptions of the essential duties and responsibilities of the class including job definitions, and statements of the required and desirable qualifications.

Each class specification outlines the main characteristics and qualification requirements of positions allocated to the class and gives examples of duties which employees holding such positions may properly be required to perform. The class specification is descriptive and explanatory, but not restrictive. The listing of particular examples of duties does not preclude the assignment of other tasks and duties of related kind or character or of lesser skills. The statement of desirable qualifications in a class specification is intended to be used as a guide in selecting candidates for employment as an aid in the preparation of competitive examination, and for use in determining the relative value of positions in one class with positions in other classes. Such personal characteristics as honesty, sobriety and industry are deemed to be included in all class requirements and need not be specifically mentioned.

Nothing in the class specifications is to be interpreted as restricting a supervisor in assigning an employee of one class to perform the duties of a higher class for limited relief periods. Such assignment to perform the work of a higher class for a limited period comes within the requirements of work in all classes.

## ***Adoption***

Before the Classification Plan or any part thereof shall become effective, it shall be adopted by the Commission upon recommendation of the Personnel Committee.

## ***Revisions***

Each basic revision in the Classification Plan shall be made in the same manner as the Plan was originally established.

The General Manager may review duties of positions and prepare recommendations to the Personnel Committee for action by the Commission to insure that the Plan is kept current and those changes in existing classes, the establishment of new classes or the abolition of classes is properly reflected in the Classification Plan.

The General Manager may reallocate a position to a different class whenever its duties change materially. Any proposed reallocation to be made shall be made with the knowledge of the employee concerned.

Whenever a new position is proposed, the General Manager shall prepare a comprehensive statement of the circumstances and description of the proposed duties and responsibilities and recommend allocation of the position to an appropriate class in



the Classification Plan. No new position shall be filled by an individual until the position has been created by the Commission and until there is an approved class specification describing the work to be performed which has been adopted under the Classification Plan.

Reclassification of a position may not be used to circumvent the procedures concerning demotion, promotion, or compensation.

### ***Incumbents of Reclassified Positions***

When a position is reclassified from one class to another, the employee occupying the position may be retained in the position without further competitive examination provided that:

1. It is determined by the General Manager that the reclassification results from a change in duties and responsibilities that have already occurred.
2. The performance of the duties and responsibilities of the incumbent have been satisfactory.
3. The General Manager certifies that the incumbent possesses the knowledge, skills and abilities necessary to perform the duties of the new class.

The incumbent has regular status in the class to which the position was formerly allocated.

## **SECTION IV – COMPENSATION PLAN**

### ***Content***

The Compensation Plan shall consist of a schedule of monthly salary ranges, the method of computing hourly equivalents of actual salaries, and a summary list of additional benefits provided by the Authority.

### ***Preparation***

At least once annually, prior to the beginning of the fiscal year, the General Manager shall prepare a tentative Compensation Plan and shall present it to the Personnel Committee for review and recommendation to the Commission.

In preparing the tentative plan, the General Manager shall take into consideration class-by-class salary comparisons with Member Agencies and other comparable agencies to be designated by the Personnel Committee and across-the-board compensation adjustments received by Member Agencies since the last EBDA adjustment. Appropriate consideration shall be given to adjustments of the cost of living as measured by the National Consumer Price Index Pacific Cities, the base figure for

comparison shall be the SF-Oakland-SJ city for the period of January 1 through December 30 of the previous year. Adjustments in the cost of living shall be considered once a year as the General Manager prepares the Compensation Plan. The approved salary adjustments shall be applied to all of the classifications, effective the following July 1, to the current salary of each employee on that date and the salary ranges for each classification shall be adjusted a like amount by adoption of an amended Compensation Plan.

### ***Adoption***

The Compensation Plan for all employees shall be established by the Commission upon recommendation of the Personnel Committee prior to the effective date of any amendments thereto.

### ***Administration***

The Compensation Plan shall be administered by the General Manager. The General Manager, after review by the Personnel Committee and approval by the full Commission, shall determine the actual salary of individual employees, within the ranges established in the compensation plan, based on his/her evaluation of the employee qualifications, performance and merit.

Salary step increases shall be earned, shall be subject to satisfactory service, and shall not be considered a right of the employee. Employees whose work performance meets or exceeds the standards of conduct and performance outlined in the classification plan shall be eligible for advancement to a higher step within the range established in the Compensation Plan. After an employee satisfactorily completes the required probationary period, which is six (6) months of continuous service in the same position unless extended, an employee is eligible for his/her first step increase upon approval of the General Manager. Subsequent step increases shall be effective annually on the anniversary date of the employee's last merit increase until the employee reaches the top step of the range. After reaching step 5 (upon approval of the General Manager), the employee shall remain at the same rate provided for at step 5 while he/she continues to serve in the same position, subject to satisfactory service.

A written performance evaluation shall accompany a recommendation for salary advancement. Performance standards are based on satisfactory achievement of the qualifications outlined in the classification plan in addition to customary employment standards, such as knowledge of the position; quality of work; ability to handle responsibility; acceptable rate of productivity; demonstrated initiative; and an acceptable attendance record. Performance evaluations, which may include employee comments or rebuttals, shall be maintained in the employee's personnel file. A copy shall be provided to the employee.

## **SECTION V – RECRUITMENT AND APPLICATION**

### ***Recruiting***

Public announcement of all employment opportunities shall be made at least three weeks prior to the final filing date of the announcement. The General Manager shall prepare an official announcement for posting in appropriate public places and its publication in appropriate news media or trade journals. The announcement shall contain all information of importance for potential applicants. Suitable and effective methods of distributing information concerning employment opportunities and securing the most qualified candidates available for competition shall be practiced.

### ***Application***

Applications for employment shall be made readily available to potential applicants. Applications filed with the Authority shall be filed at the time, place, and manner prescribed in the job announcement and, once filed, shall become the property of the Authority.

### ***Disqualification of Applicants***

The Authority may reject an application, may disqualify an applicant in an examination, may refuse to place a name on an eligibility list, or may remove a name from an eligibility list for any legitimate reason, including but not limited to the following:

1. Substantive failure to fulfill any of the qualifications for the class or position for which the application is made.
2. Failure to pass written examinations required by the Authority.
3. Failure to pass the appraisal board interview.
4. Failure to pass a pre-offer background check and/or post-offer physical examination.
5. Failure to furnish true statements of material facts.
6. Practice or attempted practice of fraud or deception in connection with filing an application or during examination.
7. Previous dismissal from any public service for cause.
8. Previous resignation from the Authority without adequate notice or under other prejudicial circumstances.
9. Being under the influence of intoxicant(s) that would impair the applicant's ability to perform in a safe and competent manner.
10. Previous conviction of a crime against person or property of a violent nature.
11. Failure of an applicant, after notification, to present themselves promptly at the time and place designated for any portion of the examination.

12. Obtaining either directly or indirectly, information about an examination that, as an applicant or competitor, would give applicant an unfair advantage or to which applicant was not entitled.
13. Applicant has failed to respond to communications concerning his/her availability for employment.
14. Applicant has made him/herself unavailable for employment by requesting that his/her name be withheld from consideration.

### ***Confidentiality***

The names of applicants and information contained on applications for employment shall not be made public.

### ***Verification***

Information presented on applications may, during the course of the hiring process, be verified and applicants may be subject to a background check by the Authority. The Authority has the right to conduct a complete and exhaustive background investigation of all applicants seeking employment.

### ***Exemption***

All at-will positions shall be exempted from the foregoing recruitment and application procedure. Recruitment and application for at-will positions shall be conducted in a manner established by the Commission as vacancies occur.

## **SECTION VI – SELECTION PROCEDURE**

The selection procedure shall be impartial, of a practical nature, and shall indicate a good forth effort to fairly measure and evaluate capacities of the applicants to execute the essential duties and responsibilities of the position to which they seek to be appointed. Applicants participating in the recruitment shall compete in the same process and follow the same selection methodology. The selection procedure may include any one or a combination of the following:

- A. Information extracted from the application form, resume and other pertinent documentation submitted;
- B. Written, practical (hands-on), or physical tests or examinations, or any combination thereof;
- C. Oral interview with an appraisal board and/or one-on-one interview with Authority staff; and/or,
- D. Other appropriate means.

Applications shall be screened and evaluated. The most qualified candidates will be selected to participate in the selection process.

The Authority shall notify each applicant in writing of his/her standing as important steps in the selection process are completed. Once a candidate is selected and a job offer is made, the other candidates on the eligibility list shall be notified of the fact, and informed that their names will remain on the eligibility list for that position for a period of one year.

### ***Medical Examination***

Before any appointment may be made to a regular position, the individual shall be required to satisfactorily pass a medical examination given by a regularly licensed physician designated by the Authority and made at the Authority's expense. No person shall be given a probationary or regular appointment that, at the time of such appointment, is physically unable to satisfactorily fulfill the duties of the position. An eligible candidate may be accepted conditionally when it is the opinion of the examining physician that his/her physical disqualification may be temporary or when it is deemed that treatment may satisfactorily correct any impairment. Such impairment shall be corrected no later than one month prior to the completion of the employee's probationary period. Regular employees being appointed to positions involving increased physical effort may also be required to satisfactorily pass an appropriate physical examination.

## **SECTION VII – EMPLOYMENT LISTS**

### ***Establishment***

At the completion of the examination process, an employment list containing the names of all persons who have successfully passed all parts of the selection process shall be prepared by the General Manager.

### ***Order of Names***

The names of successful candidates shall be placed on the employment list in the order of their final ratings, after these ratings have been converted to percentage figures. If two or more candidates have final scores that are identical, these candidates shall occupy an identical position on the employment list.

### ***Duration of List***

Each employment list shall normally remain in force for one year from the date of its establishment, except that the General Manager, at his/her discretion, may extend the list for an additional period of time up to one year.

### ***Removal of Names***

The name of any eligible candidate may be removed or withheld from an employment list for any of the reasons specified in Section V.

### ***Restoration of Names***

An eligible candidate's name shall be reinstated to an employment list in the same relative position as originally held upon showing cause satisfactory to the General Manager.

### ***Termination of List***

An employment list may be terminated prior to its usual expiration date upon recommendation of the General Manager and approval of the Commission when it is considered to be in the best of interest of the Authority.

## **SECTION VIII – APPOINTMENT**

The power to appoint, discipline and dismiss employees of the classified service shall be vested in the General Manager or designee.

The successful candidate will be required to provide proof of identity and authorization to work in the United States. Documentation of eligibility to work in the United States will be required as a condition of employment.

### ***Oath***

Every new employee shall be required to sign a loyalty oath as prescribed in the California Government Code.

### ***Regular Appointments***

Regular appointments shall be made by the General Manager or designee from established eligibility lists. Candidates appointed to regular positions shall be considered in a probationary status until successfully completing the probationary period. For employees who are not classified as “at-will,” regular appointments shall be made upon successful completion of the probationary period.

### ***At-Will Appointment***

An at-will employee is one whose employment may be terminated at the discretion of the Commission and/or General Manager at any time with or without cause. Rules providing pre-discipline meeting rights and post-discipline appeal rights for discipline or separation for cause do not apply to at-will employees. At-will positions include managerial employees whose terms of employment are stipulated in a written employment agreement signed by both parties. At-will status also applies to any probationary employee.

At-will employees shall enjoy the same statutory protections of regular employees, including laws that prohibit discrimination or harassment based on protected classes such as race, national origin, ancestry, sex, age, physical or mental disability, sexual

orientation, marital status, medical condition or religion. At-will employees shall also be entitled to engage in protected activities without fear of retaliation, such as filing a charge of discrimination, whistleblowing or participating in an investigation.

### ***Temporary Appointments***

If an employee is needed for a temporary period, certification shall be made from the names of those eligible candidates that have indicated willingness to accept temporary employment and appointment shall be made by the General Manager. The duration of the temporary appointment shall be limited to the period of the need and in no event shall continue for more than one year.

The acceptance or refusal of a temporary appointment shall not affect an eligible candidate's standing on an employment list and the period of temporary service shall not constitute a part of a probationary period. Successive temporary appointments to the same position shall not be made nor shall an individual receive continued temporary appointments. If an appropriate employment list does not exist, an offer of temporary appointment may be made to a person who has not qualified under provision of these rules.

### ***Provisional Appointments***

The General Manager may make a provisional appointment to a position if there is no eligibility list for the class, and if the needs of the service require that the position be filled before a selection process can be completed. A provisional appointee shall:

- Meet the requirements of training and experience established for the position;
- Not be continued for more than thirty (30) days after an eligibility list for the position has been established, unless there are no candidates on such eligibility list who are available or wish to be considered for appointment to the position;
- Not serve under provisional appointment for longer than a 12-month period except when employed for a specific contract undertaken by the Authority.

### ***Part-Time Appointment***

If an employee is needed for less than a total of 30 hours per week, a part-time appointment shall be made by the General Manager from eligible candidates that have indicated willingness to accept part-time employment. Part-time employees serve at the discretion of the General Manager. Candidates appointed to part-time positions do not serve probation and can be dismissed any time with or without cause. Part-time employees shall work no more than 1000 hours in a fiscal year.

## **SECTION IX – EMPLOYMENT STATUS**

### ***Probationary Status***

The first six (6) months of employment is a period of evaluation for all regular employees and is called a Probationary Period. This is a time to monitor both work performance and work habits of the newly appointed employee. The probationary period may be extended for an additional period, not to exceed six (6) additional months, if an employee requires additional evaluation. If an employee successfully completes the probationary period, the employee moves from probationary status to regular status.

If, at the sole determination of the Authority, the newly appointed employee is unsuccessful in completing the probationary period, the employee shall be terminated with no right of appeal or hearing.

Regular, full-time employees occupying management or supervisory positions are not subject to probationary periods and serve as “at will” employees at the pleasure of the Authority; they can be terminated anytime, with or without cause.

### ***Regular Status***

Employees with this employment status have completed the probationary period and work a forty (40) hour workweek on a regular basis.

### ***Part-Time Employment***

Part-time positions are those that are required on a long-term basis. Incumbents in these positions can expect to work less than 30 hours per week and will not be eligible for benefits, except sick leave. The General Manager shall periodically review the part-time positions to determine that there are appropriate staffing levels to meet the needs and requirements of the Authority and make adjustments as necessary. The Authority is responsible for following the same recruitment/selection process as for regular, full-time employees. Part-time employees do not serve a probationary period. Part-time employees are “at will” and can be terminated any time, with or without cause. At the end of each 2080 hours worked, the part-time employee is eligible for a salary step increase based on satisfactory performance.

### ***Temporary Employment***

Temporary full-time and part-time positions may be required to complete a one-time project or set of projects. Temporary, part-time employees will not be eligible for benefits.

### ***Resignation***

An employee who resigns shall present notice in writing to the Authority at least 14 calendar days prior to the effective date of the resignation.



### ***Reduction in Force***

The Commission may separate any employee, without prejudice, because of lack of work or funds, or because of material change in duties or organization. No regular employee, however, shall be separated while there are provisional, probationary or temporary employees serving in the same class; provided, however, a regular employee otherwise subject to separation under these Rules may elect voluntary demotion to a lower class if vacancies exist. The order of separation due to reduction in force shall be based upon seniority. All employees subject to separation under these provisions shall receive written notice at least 14 calendar days prior to the effective date.

## **SECTION X – DISCIPLINE AND GENERAL RULES OF CONDUCT**

It is expected that all employees shall render the best possible service and reflect credit on the Authority. Therefore the highest standards of professional conduct are essential and expected of all employees.

### **Disciplinary Actions**

The Authority may invoke the following types of disciplinary actions:

- a) Verbal Warning
- b) Written Reprimand
- c) Suspension With or Without Pay
- d) Reduction in Pay
- e) Demotion
- f) Disciplinary Probation
- g) Discharge/Termination

### ***Grounds for Discipline***

Disciplinary measures may be taken for any good and sufficient cause. Authority employees who are employed “at-will,” or who are temporary or probationary, are not subject to the requirement of good cause, and are not entitled to pre-discipline procedures or appeals under these policies.

Good cause exists not only when there has been an improper act or omission by an employee in the employee’s official capacity, but when any conduct by an employee brings discredit to the Authority, affects the employee’s ability to perform his or her duties, causes other employees to be unable to perform their duties, or involves any improper use of the employee’s position for personal advantage or the advantage of others. Rules requiring good cause do not apply to at-will employees. The type of disciplinary action shall depend on the seriousness of the offense and the relevant

employment history of the employee. Causes for disciplinary action against an employee may include, but shall not be limited to, the following:

- a) Misstatements or omissions of fact in completion of the employment application or to secure appointment to a position with the Authority.
- b) Furnishing knowingly false information in the course of the employee's duties and responsibilities.
- c) Inefficiency, incompetence, carelessness or negligence in the performance of duties.
- d) Violation of safety rules.
- e) Violation of any of the provisions of these personnel rules and regulations, department rules and regulations, or Authority policies.
- f) Inattention to duty.
- g) Tardiness, or overstaying lunch periods.
- h) Being under the influence of an intoxicating beverage or non-prescription drug, or prescription drugs not authorized by the employee's physician, while on duty or on Authority property, or when called in for emergency duty.
- i) Disobedience to proper authority, refusal or failure to perform assigned work, to comply with a lawful order, or to accept a reasonable and proper assignment from an authorized supervisor.
- j) Any violation of the Authority's No Harassment Policy.
- k) Unauthorized soliciting on Authority property.
- l) Unauthorized absence without leave; failure to report after leave of absence has expired or after a requested leave of absence has been disapproved, revoked or canceled; or any other unauthorized absence from work.
- m) Conviction of a felony, or a misdemeanor involving moral turpitude, or a violation of a federal, state or local law which negatively impacts the employee's ability to effectively perform his/her job or brings discredit to the Authority.
- n) Offensive treatment of the public or other employees.
- o) Falsifying any Authority document or record.
- p) Misuse of Authority property; improper or unauthorized use of Authority equipment or supplies, damage to or negligence in the care and handling of Authority property.
- q) Fighting, assault and/or battery.
- r) Theft or sabotage of Authority property.
- s) Sleeping on the job, except as specifically authorized for 24-hour duty personnel.
- t) Accepting bribes or kickbacks.

- u) Engaging in outside employment which conflicts with an employee's responsibilities.
- v) Intimidation or interference with the rights of any employee.
- w) Outside work or any other activity or conduct which creates a conflict of interest with Authority work, which causes discredit to the Authority, negatively impacts the effective performance of Authority functions or is not compatible with good public service.
- x) Failure to maintain the minimum qualifications, including necessary licenses or certifications specified for the position.
- y) Abusive or intemperate language toward or in the presence of others in the workplace.
- z) Any other conduct of equal gravity to the reasons enumerated above as determined by the Authority.

### ***Procedure for Disciplinary Action***

Regular employees covered by this policy shall be governed by the following provisions:

#### Written Notice

The General Manager shall issue a written notice of discipline, describing the intended discipline, the basis for the discipline, and attaching any documents upon which the discipline is based. The affected employee may respond by submitting a rebuttal to be lodged in the employee's personnel file, and in the case of a suspension of one to four days, shall have the ability to present their side of the story by responding orally or in writing before the discipline becomes final within five working days of the notice being issued. Any such response to a proposed suspension of one to four days shall be considered before a final decision is made. For minor discipline—any action up to and including a suspension of four (4) working days—no further appeal shall be permitted. For disciplinary actions greater in severity than five (5) working days, employees shall retain pre-discipline meeting and post-discipline appeal rights as described below.

#### Pre-Discipline Meeting

For discipline that is greater in severity than a suspension of five (5) working days, the employee shall receive written notice of the charges upon which the disciplinary action is based, the materials upon which the charges are based, and the employee's rights under *Skelly vs. State Personnel Board*, 15 Cal.3d 194 (1975.) The employee then has an opportunity to respond, either orally or in writing.

The General Manager shall designate an individual to convene a meeting to review the employee's response and position before imposing discipline. As soon as practical following the meeting, the designated individual shall present his or her written opinion

for consideration by the General Manager. If the General Manager is not the direct supervisor of the employee, the General Manager him/herself may convene the meeting.

The employee shall be entitled to a representative of his/her choice; provided, however, that the inability of a particular representative to attend the meeting shall not cause a continuance of the meeting. At the meeting, the employee shall be provided the opportunity to respond to the charges and to present any new information for consideration by the General Manager or his/her designee.

### Final Action

After the employee responds to the charges, he/she shall be given by the General Manager a final notice of discipline to be imposed and an opportunity to appeal the discipline after it is imposed, in accordance with the rules contained herein. The notice shall include the final decision, the effective date of the discipline and the facts upon which the discipline is based.

### Appeal

For discipline that is greater in severity than a suspension of five (5) working days, employees shall have the right to appeal from the final decision. The notice of appeal must be received within seven (7) calendar days from the date of the final notice of discipline, or the right to appeal is waived and the discipline shall become final.

The appeal shall be heard by an independent hearing officer from the Office of Administrative Hearings of the State of California; a neutral from another recognized organization; or a neutral selected by mutual agreement of the employee and the Authority.

The costs of the hearing officer shall be borne by the Authority. Either party may request that the matter be transcribed. The requesting party shall bear the expense of the transcript.

The hearing officer shall have the authority to convene the hearing, receive evidence through testimony and documents and to make findings of fact and conclusions about the discipline. The hearing officer may recommend an outcome, but the final authority rests with the Commission. The hearing officer shall serve a recommended decision on the Authority and the employee. The Commission shall issue a final decision. The Commission's decision is reviewable by administrative writ of mandamus.

## **SECTION XI – HOURS OF WORK**

### ***Office Hours***

Normal hours on all days of the year, except Saturdays, Sundays and holidays, shall be 8:00 a.m. to 12 noon and 1:00 p.m. to 5:00 p.m.

### ***Attendance***

Employees, other than part-time employees, shall be required to be on duty for 40 hours during each seven-day work week, notwithstanding authorized leaves as hereinafter defined. When the needs of the Authority require, the General Manager may vary the working hours of any employee within the limits of State Law or other labor regulations. Daily attendance records shall be kept and certified for payroll purposes. Any employee absent without leave, who fails to return to work within 24 hours after notice to return, shall be subject to immediate discharge.

### ***Overtime***

Overtime is ordered and authorized working time in excess of the employee's regular forty-hour week. Overtime work shall be recognized only for employees occupying non-exempt positions.

### ***Overtime Rate***

Overtime for non-exempt employees shall accrue at the rate of one and one-half times the hours actually worked. Overtime hours may be paid on the next regular pay check or accrued as compensatory time at the discretion of the employee and with the approval of the General Manager prior to performance of the work. Compensatory time shall be used within a 12-month period from the date earned.

### ***Call Back***

When an employee is required to return to work following a lapse of at least one hour after his/her normal working hours, a minimum of two hours shall be recorded.

### ***Exception***

Exempt positions shall not accrue overtime but shall adjust their working hours in lieu thereof as approved by the General Manager.

## **SECTION XII – HOLIDAYS**

### ***Authority Holidays***

The following days shall be holidays for all full-time Authority employees:

New Year's Eve	December 31
New Year's Day	January 1
Martin Luther King Birthday	3 <sup>rd</sup> Monday in January
President's Day	3 <sup>rd</sup> Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Day after Thanksgiving	4th Friday in November
Christmas Eve	December 24
Christmas Day	December 25

If a holiday falls on a Sunday, the following Monday shall be observed as a holiday. If a holiday falls on a Saturday, the preceding Friday shall be observed as a holiday.

### ***Floating Holidays***

Twenty-eight hours of personal holiday may be taken anytime in the fiscal year with the approval of the General Manager. (The Authority's fiscal year is July 1 through June 30.) If the personal holidays are not taken during the fiscal year, they are lost and there shall be no compensation for them.

### ***Compensation for Holidays Worked***

Holidays shall be worked only on order and authorization of the General Manager. Work performed by a non-exempt employee on a holiday shall be compensated by pay at time and one-half the regular rate.

## **SECTION XIII – LEAVES AND VACATIONS**

### ***Vacation Leave Policy***

Vacation leave is an earned right of the employee; however, the use of it shall be approved by the General Manager. Vacation leave shall be taken in increments of not less than one hour.

### ***Vacation Leave Allowance***

All full-time regular employees other than temporary, provisional, or part-time employees shall earn vacation leave at the rate of 80 working hours per year from the date of employment. Employees shall not be permitted to take any vacation during the first six months of employment. Full time employees shall earn an additional eight (8) hours vacation leave allowance for each full year of continuous employment thereafter, up to a maximum of 160 working hours per year.

All part-time employees shall earn vacation leave at the rate of 8 working hours for each 200 hours worked from the date of employment, up to a maximum of 40 working hours per year.

All employees shall be permitted to accumulate unused vacation at a rate of 2-1/2 times his or her annual vacation allotment based on length of service. Vacation accruals will be reviewed the end of each fiscal year. If the accrual exceeds 2-1/2 times the annual allotment, no further accumulation will be earned until the balance returns to within its permitted limit. In years that the accrual exceeds the annual allotment, the value of the excess accrual shall be paid to the employee at the end of that fiscal year and those hours shall be subtracted from the balance.

### ***Method of Computing Credits***

Vacation leave credits shall be computed and recorded in increments of one hour. When periods of less than one full month have been worked, vacation leave credits shall be based on service computed to the nearest half month.

### ***Recording Credits***

On July 1st of each year, employees who have completed at least six months of satisfactory full-time continuous services shall be credited in advance with vacation leave allowance for the entire fiscal year. Vacation leave shall be earned during authorized leave with pay. When a holiday falls during an employee's absence on vacation leave, it shall not be deducted from his/her accrued leave. If an employee leaves the Authority service prior to the end of the fiscal year, reconciliation of vacation leave earned and taken to date of termination shall be made. If the vacation leave taken exceeds leave earned, the excess shall be deducted from the employee's final pay. If

vacation leave earned exceeds leave used at date of termination, the excess shall be added to employee's final pay.

### ***Payment for Unused Vacation Leave***

Unused vacation leave is not transferable to retirement service credit. Upon termination or death of an employee, the employee or the employee's heir(s) or beneficiary(ies) shall receive compensation for vacation leave earned but unused at the time of separation. Payment shall be equal to the number of hours of vacation earned but unused at the time of separation times the employee's hourly rate of pay at the time of separation.

### ***Sick Leave Policy***

Sick leave shall be allowed in case of actual sickness of the employee. Sick leave shall be granted only on approval of the General Manager in increments of not less than one hour. An employee may use a maximum of five (5) days of sick leave each fiscal year for absences caused by the illness or injury of a *family member*. A family member is defined as a child, parent, spouse or registered domestic partner, grandparent, grandchild or sibling. Use of sick leave for this purpose is intended to apply in serious and unforeseen conditions where the presence of the employee in the home or hospital is required for the care, legal requirement or health of the family member. Authorization to use additional sick leave beyond the five-day maximum may be granted by the General Manager when exceptional circumstances warrant.

If an employee will not be at work as scheduled, he/she must notify the supervisor within one-half hour of the time to report for work or at the first practical opportunity.

### ***Sick Leave Allowance***

Regular employees accrue sick leave at the rate of four (4) hours per payroll period, up to 96 hours per calendar year. Sick leave shall be cumulative without limit.

Part-time and Temporary Employees who work thirty (30) or more days within a year from the beginning of employment are entitled to paid sick leave. The Authority will grant three days of paid sick leave upon hire, and on January 1 of each calendar year. An employee may use paid sick leave beginning on the 90<sup>th</sup> day of employment.

### ***Computing and Recording Sick Leave***

Initial crediting of sick leave shall be based on service computed to the nearest half month. Sick leave records shall be maintained on an hourly basis. On July 1st each year, an employee shall be credited in advance with the annual allowance. After an absence is approved as sick leave, it shall be deducted from the employee's leave balance. If at time of separation an employee owes the Authority for unearned sick leave, the actual time shall be deducted from his/her final pay.



### ***Medical and Dental Appointments***

Sick leave may be used for medical, dental, therapy or similar purposes for a minimum period of one (1) hour and should not exceed four (4) hours except in unusual circumstances. A maximum of five (5) days of sick leave per year may be used for medical, dental or therapy appointments for a family member when the employee's presence is required.

### ***Payment for Unused Sick Leave***

The Authority's contract for retirement benefits provides that sick leave earned but unused upon the termination or death of any employee enrolled in the pension plan shall be applied to the employee's total service credit subject to the following specifications.

Pursuant to GC§20965, the employee whose effective date of retirement is within four months of separation from employment shall receive credit toward his or her retirement equal to 0.004 years of service credit for each unused day (8 hours) of sick leave.

Upon the death of an employee prior to separation from employment, the employee's heir(s) or beneficiary(ies) shall receive compensation for sick leave earned but unused by the employee equal to 0.167% of the number of hours of sick leave, times the number of whole months of continuous employment, times the employee's hourly rate of pay at the time of death.

### ***Bereavement Leave***

All full-time regular employees, except temporary, provisional and part-time employees, shall be granted bereavement leave with pay not to exceed three (3) working days, as necessary, upon the occasion of the death of a close relative. When additional time is desired, employees may be allowed to take accumulated vacation leave or compensatory time off. Close relatives are defined as the employees mother, father, brother, sister, wife, husband, domestic partner, child, grandparent, current mother-in-law or current father-in-law of the employee. The General Manager may grant bereavement leave for other relatives on a case-by-case basis. Additional leave for travel purposes not to exceed five (5) calendar days may be granted by the General Manager when circumstances warrant.

### **Catastrophic Leave**

Full-time regular employees, except temporary, provisional and part-time employees, are eligible to receive catastrophic leave donations in the following circumstances:

- The employee must have exhausted all available leave (i.e. vacation and sick leave, floating holidays).
- The absence must be due to the employee's or their spouse, domestic partner, or child's life threatening or debilitating illness, injury, or condition.

Employees may donate vacation leave on a voluntary basis. The employee making the donation must authorize in writing that a designated portion of his/her accrued vacation may be transferred from his/her leave account to the recipient employee's vacation account. Once made, donations are irrevocable.

All donated hours shall be converted to the donor's hourly rate, and the equivalent dollar amount shall be deposited and converted to hours at the recipient's hourly rate. Donors must retain a minimum of 80 hours of their own vacation leave.

### ***Personal Leaves of Absence***

Personal leaves of absence are legally required in the following situations:

#### **Family Leave**

#### **California Family Rights Act (CFRA) And Family Medical Leave Act (FMLA)**

The CFRA and FMLA were established to ensure secure leave rights for the following:

- Birth of a child for purposes of bonding
- Placement of a child in the employee's family for adoption or foster care
- For the serious health condition of the employee's child, parent or spouse
- For the employee's own serious health condition

Employers subject to CFRA/FMLA are those who do business in California and employ 50 or more employees. EBDA does not have a workforce of 50 or more employees, and therefore, CFRA and FMLA do not apply to EBDA employees.

#### **Time Off to Vote**

If an employee does not have sufficient time to vote outside of working hours, he or she may take off time to vote at the beginning or the end of the shift, whichever provides the most free time to vote. The employee may take off no more than two hours without loss of pay, providing he or she has given at least two working days' notice that time off is desired.

#### **Jury Leave**

All employers must provide leaves of absence for employees who serve on inquest or trial juries or who appear in court as a witness as required by law. The employee must give reasonable notice to the employer. It is not a requirement to compensate employees for time off to serve on juries or to appear as a witness.

An employee summoned to jury duty shall inform his/her supervisor, and if required to serve, may be absent from duty with full pay. Any jury fees received by an employee

shall be remitted to the Authority. Reimbursement fees such as mileage shall not be remitted to the Authority.

### **Witness Duty**

If an employee receives a subpoena to appear in court, he/she must notify his/her supervisor immediately. The employee is expected to return to work as soon as their service as a witness is complete.

### **Military Leave**

Any employee who is a member of the Reserve Corps of the Armed Forces of the United States, the National Guard or the National Militia is entitled to a temporary leave while engaged in military duty ordered for purposes of military training, drills, encampment, naval cruises, and special duty or like activity. Such temporary leave does not have to exceed seventeen (17) calendar days including travel time and does not have to be compensated. Military leave shall be granted in accordance with the provisions of State law. All employees entitled to military leave shall give the General Manager an opportunity, within the limits of military requirements, to determine when such leave shall be taken. Military leave may be granted with pay provided employees reimburse the Authority for the amount of compensation, excluding travel and sustenance, which may be earned during the leave period.

### **Time Off To Appear At School When Required By the School**

All employers must allow a parent or guardian of a pupil to appear at the school when the school has given advance notice. It is not a requirement that the employee be compensated for the time. The employee is required to give reasonable notice to the employer. An employee may take vacation or personal leave.

### **Disability Leave**

For employee injury or disability falling within the provision of the State Workers' Compensation Disability Act, disability compensation at the rate allowed under said Act shall be basic remuneration during the employee's period of disability. In the case of full-time employees, other than temporary, provisional or part-time employees, additional compensation equal to the difference between said employee's regular pay and his/hers disability compensation allowance shall be granted not to exceed one year for any one period of incapacity. In the event a waiting period is required before an employee's disability compensation allowance is payable, his/her regular pay shall be provided during said waiting period.

Compensation for short- and long-term disability leave resulting from employee injury or disability not related to Workers' Compensation is addressed in the Compensation Plan. Authority employees do not pay into the California State Disability Insurance (SDI) Program.

### ***Voluntary Leave of Absence***

The Commission, upon written request of a full-time employee, other than a temporary, provisional or part-time employee, may grant a voluntary leave of absence, without pay, for a period up to six (6) months. Upon written request of the employee, accompanied by justification and assurance of intent to return to duty, such leave of absence may be extended by the Commission another six (6) months, for a total continuous leave not to exceed a period of one (1) year. Leaves hereby authorized shall include educational leave, maternity leave, and leave for any other purpose promoting the good of the service. Upon expiration of such a leave, the employee shall be reinstated to the position held at the time leave was granted. Failure of the employee to report promptly at its expiration, or within 24 hours after notice to return to duty, shall terminate his/hers right to be reinstated. During such leave an employee shall not earn sick leave or vacation leave, but shall maintain seniority at the time leave was first granted.

If the employee elects to maintain benefits during a voluntary leave of absence, prior to the start of the leave period, he/she shall pay to the Authority an amount equal to 100% of medical, dental, vision and long-term disability insurance premium costs that are due and payable during the scheduled leave period. If the employee elects to suspend or discontinue benefits during a voluntary leave of absence, he/she may re-enroll during the Open Enrollment period upon return to work.

## **SECTION XIV – EMPLOYEE EDUCATION OR TRAINING**

### ***Education***

An employee may be authorized to attend special training courses, seminars or conferences which are determined to be job-related or will enhance the employee's work performance.

### ***Reimbursement***

In addition to receiving leave with pay, the employee may be reimbursed for the cost of registration, tuition, books, supplies or other expenses incurred in attending special training courses, seminars or conferences which are job-related or will enhance work performance.

## **SECTION XV – EMPLOYEE HEALTH AND SAFETY**

### ***Accident Reports***

Any employee involved in an accident (whether involving injury or not) while on the job, must notify his/her supervisor and complete the required accident report forms within 24 hours of occurrence.

### ***Work Injury or Illness***

If an employee is unable to work as a result of what he/she believes to be an injury or illness arising out of or in the course of employment, he/she must visit a doctor for examination and the necessary forms shall be prepared for compliance with State laws and compensation insurance. If it is determined that the injury or illness is job related no deduction will be made from the employee's sick leave.

Filing a false or fraudulent workers' compensation claim is a violation of Authority policy, and will result in disciplinary action, up to and including immediate termination.

### ***Employee Health***

When, in the judgment of the General Manager, an employee's health or physical condition may have an adverse effect on the performance of his/her duties, or affect safety or health of fellow employees, he/she may be required to undergo a medical or psychological examination at the expense of the Authority.

On the basis of authoritative medical advice, the General Manager shall determine whether an employee is physically and psychologically incapacitated for the duties of his/her position and may take whatever action deemed appropriate.

### ***Safety Rules***

All employees shall be expected to comply with all safety rules which may be adopted by the Authority as an integral part of their job duties. Failure to comply with adopted safety rules shall be grounds for disciplinary action.

### ***Safety Equipment***

The Authority shall determine the need for protective clothing and safety equipment for all employees and shall require its use where necessary for the protection of the employee. The Authority will furnish, at no expense to the employee, all protective clothing and safety equipment required for the employee's performance of duties.

## **SECTION XVI – NO HARASSMENT POLICY**

The Authority does not tolerate harassment of any of our employees, customers or clients. Any form of harassment which violates federal, state or local law, including, but not limited to harassment related to an individual's race, religion, color, sex, sexual orientation, national origin, ancestry, citizenship status, marital status, pregnancy, age, medical condition, handicap or disability is a violation of this policy and will be treated as a disciplinary matter. For these purposes the term "harassment" includes slurs and any other offensive remarks or jokes, and other verbal, graphic, or physical conduct. Harassment also includes sexual advances, requests for sexual favors, unwelcome or offensive touching and other verbal, graphic or physical conduct of a sexual nature.

Questions about what constitutes harassing behavior shall be directed to the General Manager or to the Commission Chair.

Harassment shall be immediately reported to the General Manager or to the Commission Chair. The Authority strictly prohibits retaliation of any kind and will not tolerate employees' attempts to hinder internal investigations and/or corrective actions. All complaints of harassment that are reported to management will be looked into as promptly as possible and may be investigated. All complaints of harassment that are reported to management will be treated to the extent allowable by law.

Harassment of our employees in connection with their work by non-employees is also strictly prohibited. Any employee who experiences harassment by a non-employee or who observes harassment of an employee by a non-employee should report such harassment to the General Manager or Commission Chair. Harassment of our customers or clients by our employees is also strictly prohibited. Any violation of this policy will result in appropriate disciplinary action, up to and including termination.

Authority management and supervisory employees are required to attend sexual harassment prevention training and education that meet all requirements outlined by Government Code §12950.1.

## **SECTION XVII – GRIEVANCES**

### ***Definition***

A grievance is any dispute between the Authority and an employee or employees with respect to the meaning, interpretation, application or enforcement of Authority rules and regulations or other terms or conditions of employment. Grievance shall not include actions taken by the Authority under Section XI, Disciplinary Actions and Appeals, hereof.

### ***Policy***

It is the intent of the Authority to anticipate and diminish causes of grievances and to settle any which arise, at the lowest practicable level of supervision and as fairly and promptly as possible. Therefore, time limits have been established between initiation of a grievance and its occurrence and between steps of the procedure. Any grievance not initiated or pursued within these limits will be considered settled on the basis of the last timely demand or answer, unless the time is extended to a definite date by agreement of the Authority and the employee.

Any regular employee shall have the right to use this grievance procedure free from restraint, discrimination, pressure or reprisal from any other employee or officer of the Authority. Each employee shall have the right to present the grievance individually or through a designated representative at any step of the procedure. Employees shall have the right to withdraw the grievance at any step in the procedure

## **Procedure**

If an employee has a grievance which cannot be settled by informal discussion with his/her immediate supervisor, he/she shall proceed in the following manner:

- Step 1. Present the grievance, in writing, to the General Manager, within ten (10) working days following occurrence of the event on which the grievance is based. The General Manager shall make a thorough investigation of the reported grievance and circumstances surrounding it and render a decision, in writing, to the employee within three (3) working days.
- Step 2. If the employee is not satisfied with the decision in the first step, he/she may appeal to the Personnel Committee. Such appeal must be made within five (5) working days after the General Manager's decision is received. The Personnel Committee shall make a thorough investigation and shall arrange for a hearing of the grievance at which both the employee and the Authority shall have the right to call witnesses. The Personnel Committee shall render its decision in writing within five (5) days after close of the hearing.
- Step 3. If the employee is not satisfied with the decision of the Personnel Committee in the second step, he/she may appeal to the Commission. Such appeal must be made within five (5) working days after the Personnel Committee's decision is given. The Commission or its appointed representative shall conduct an investigation and hearing within twenty (20) days and shall render a decision in writing. The decision of the Commission shall be final in all grievance proceedings.

## **SECTION XVIII – PERSONNEL RECORDS**

Personnel records are maintained in accordance with State and Federal guidelines. The personnel file shall contain, but not be limited to, performance evaluations, as well as other forms, letters, and memoranda addressed to or pertaining to an employee. If an employee refuses to sign a form, letter, or document, the supervisor shall indicate "refused to sign" on the document and shall sign their name as witness to the fact, and the document shall then be placed in the employee's personnel file.

The personnel employment records are confidential. Only administrative staff specifically designated by the General Manager and those persons who are in a supervisory capacity to an employee may review an employee's file. Employees may review their own file upon request by scheduling an appointment with the Administrative Assistant.

## **SECTION XIX – WHAT THE AUTHORITY EXPECTS OF YOU**

### ***Attitude***

Every employee should display a positive attitude toward their job. A negative attitude creates a difficult working environment and prevents the Authority from providing quality service.

### ***Business Ethics and Conflict Of Interest***

The Authority requires its personnel to conduct Authority business with integrity and to maintain a high standard of personal conduct in outside activities.

Employees are expected to recognize and avoid activities or investment which involve, or might appear to involve, a conflict of interest. While it is impossible to list in this policy statement every circumstance which may suggest a possibility of conflict of interest, the standards for evaluating such activities or investments set forth in the paragraph below are suggested for use by employees in deciding whether a conflict may exist.

No employee may engage in any outside business activity, pursuit, action or investment which could by its nature or scope (with or without personal gain): be objectively construed as preventing or potentially preventing an impartial discharge of duties; or interfere with the satisfactory performance of assigned duties within the Authority; or reflect a compromise or misuse of Authority information; or adversely affect the interests or reputation of the Authority.

Commissioners, the General Manager and the Operations and Maintenance Manager (as an alternate director to BACWA) are required to attend Ethics training classes that meet all requirements outlined by Government Code Section 53234-53235.

### ***Electronic Systems and Media***

East Bay Dischargers Authority's electronic media is provided for employees to perform job functions. Electronic media includes but is not limited to: computers, software, laptops, telephones, cellular phones, e-mail and internet access. Personal use of the Authority's electronic media shall be kept to a minimum. The Authority reserves the right to access these items at any time with or without prior notice, and the employees should have no expectation of privacy when storing or exchanging information on these devices or system.

### ***Computers and E-Mail***

All files and records stored on Authority computers are the property of the Authority. Authority computers are for business purposes only. No personal information or personal advertising or soliciting is permitted on our computer system. Use of Authority computers for unauthorized purposes is prohibited.



Electronic mail is to be used for business purposes only and is considered Authority property. Inappropriate or offensive messages are prohibited. Passwords are assigned in complete confidence. Do not give your password to anyone. Should you suspect that someone has learned your password, contact the General Manager immediately. The Authority maintains the right to access these items at any time with or without prior notice, and the employees should not assume that such messages are confidential.

Employees shall conduct Authority business only on their Authority e-mail account, not on personal e-mail accounts.

### ***Telephone, Voice Mail, and Cell Phone Use***

The Authority has a limited number of telephone lines. It is essential that we keep those lines open for business calls. Therefore, employees are to minimize use of the Authority's telephone lines for personal calls. Use of the Authority's voice mail system for personal reasons shall also be kept to a minimum.

The Authority may provide managers with cellular phones to facilitate Authority business. Personal use of the employer-provided cell phone is excludable from the employee's income as a working condition de minimus fringe benefit.

Employees who prefer to use their personal cell phones for business reasons, shall be entitled to a tax-free reimbursement in an amount equal to the monthly cost per line for Authority provided cell phones, or the employee's actual cost for their cell phone plan, whichever is lower. The reimbursement shall be paid with the first payroll of every month. The reimbursement amount shall be reviewed every January and updated as needed, to reflect the then in-effect monthly cost per line under the Authority's cellular service plan. The Authority's cellular service plan will also be reviewed periodically to ensure that it is the most cost-effective available.

### ***Confidentiality***

All records and files of the Authority are property of the Authority and considered confidential. No employee is authorized to copy or disclose any file or record. Confidential information includes all letters or any other information concerning transactions with the public, payroll or personnel records of past or present employees, financial records of the Authority, all records pertaining to purchases from vendors or suppliers, correspondence and agreements with manufacturers or distributors and documents concerning operating procedures of the Authority.

Notwithstanding the confidentiality provision, requests for information are subject to the California Public Records Act, Government Code §§ 6250 - 6276.48, and shall be responded to in the manner permitted by law.

### ***Copy Machines and Facsimile***

The facsimile and copy machines are for legitimate business purposes only and should not be used for personal use. Employees are prohibited from using these machines for the purpose of transmitting, receiving or copying materials which may be deemed offensive or insulting. Any employee, who receives such materials via facsimile transmission, the mail, or from any other source, should report the transmission immediately to the General Manager.

### ***Gambling***

Gambling is prohibited on Authority property.

### ***Personal Mail***

Employees shall minimize personal mail deliveries to the Authority premises. Mail sent to an employee at the Authority will be opened by office personnel.

Authority postage meters and letterhead may not be used for personal correspondence.

### ***Searches and Inspections***

Employees do not hold any privacy rights in any Authority property. The Authority reserves the right, at all times and without prior notice, to inspect and search any and all of its property for the purpose of determining whether any policy, rule, or directive has been violated, or when the Authority determines an inspection is necessary for purposes of promoting safety in the workplace or compliance with state and federal laws. These inspections may be conducted during or after business hours and in the presence or absence of the employee. These searches may include, without limitation, workspaces, desks, electronic devices and equipment, cabinets, motor vehicles and where appropriate non-Authority belongings that are brought onto District property.

All files and records stored on Authority computers are the property of the Authority and may be inspected at any time. Authority computers are for business purposes only and should not be used for non-work related matters. Use of Authority computers for unauthorized purposes is prohibited. Electronic mail and voice mail messages are to be used for business purposes only and are considered Authority property. The Authority may access these items at any time with or without prior notice and the employee should not assume that such messages are confidential.

### ***Unauthorized Interviews***

From time to time Authority employees may be contacted by outside parties to discuss Authority business. As a means of protecting yourself and the Authority, no unauthorized interviews are permitted to be conducted by individuals representing themselves as attorneys, peace officers, investigators, reporters, or someone who wants to "ask a few questions" regarding Authority business. If you are asked questions

about the Authority or its current or former employees, you are to refer that individual(s) to your supervisor. A decision will then be made as to whether that individual may conduct any interview and they will be introduced to you by your supervisor with a reason for the questioning. Similarly, if you are aware of an unauthorized interview occurring at the Authority, you must immediately notify the General Manager.

This provision is not intended to, nor does it interfere with any employee's ability to speak on matters of public concern; to report suspected harassment, discrimination, retaliation, fraud, misuse of public funds/resources and/or suspected criminal activity; or to engage in any lawful whistleblowing activities.

### ***Whistleblowing***

Notwithstanding the provisions of unauthorized interviews the Authority will not prevent an employee from disclosing information to a government agency or law enforcement agency when the employee has reasonable cause to believe the information discloses a violation of a state or federal statute or a violation or noncompliance with a state or federal rule or regulation. Furthermore, the Authority will not retaliate against an employee for making such a disclosure or for refusing to participate in an activity that would result in a violation of state or federal statute, or violation or noncompliance with a state or federal rule or regulation. Employees who believe they have been retaliated against shall promptly report such retaliation to the General Manager or Commission Chair.

**EAST BAY DISCHARGERS COMMISSION**  
**EAST BAY DISCHARGERS AUTHORITY**  
**ALAMEDA COUNTY, CALIFORNIA**

RESOLUTION NO. 19-35

INTRODUCED BY \_\_\_\_\_

**RESOLUTION APPROVING REVISIONS TO THE PERSONNEL POLICY**

**WHEREAS**, the East Bay Dischargers Authority is a joint powers public agency that is required to be in compliance with federal and state laws regarding its employees; and

**WHEREAS**, the Authority has determined that it is of benefit to the Authority to provide a framework in which employees can donate vacation leave to fellow employees; and

**WHEREAS**, the Authority has further determined that it is of value to the Authority to clarify policy regarding use of e-mail; and

**WHEREAS**, the Authority maintains a policy of being in compliance with all applicable laws by establishing policies that provide for a comprehensive personnel system and the administration thereof; and

**WHEREAS**, the proposed revisions are regarded by general counsel to comply with current law; and

**WHEREAS**, the revised policy has been reviewed and recommended for approval by the Personnel Committee.

**NOW, THEREFORE, BE IT RESOLVED**, the Authority hereby adopts revisions to the Personnel Policy effective August 15, 2019.

**SAN LORENZO, CALIFORNIA, AUGUST 15, 2019, ADOPTED BY THE FOLLOWING VOTE:**

**AYES:**  
**NOES:**  
**ABSENT:**  
**ABSTAIN:**

\_\_\_\_\_  
**CHAIR**  
**EAST BAY DISCHARGERS COMMISSION**

**ATTEST:** \_\_\_\_\_  
**GENERAL MANAGER**  
**EAST BAY DISCHARGERS AUTHORITY**  
**EX OFFICIO SECRETARY**

**ITEM NO. P6 RESOLUTION AUTHORIZING THE GENERAL MANAGER TO ISSUE A CHANGE ORDER TO AEROTEK, INC. FOR TEMPORARY ADMINISTRATIVE ASSISTANT SERVICES IN THE AMOUNT OF \$30,000 FOR A TOTAL NOT TO EXCEED AMOUNT OF \$47,600**

**Recommendation**

Approve a resolution authorizing the General Manager to issue a Change Order to Aerotek, Inc. for Temporary Administrative Assistant services in the amount of \$30,000 for a total not to exceed the amount of \$47,600.

**Background**

As discussed at the June 2019 Personnel Committee and Commission Meeting, the Authority's Administrative Assistant, Juanita Villasenor, is on medical leave. To cover her duties, the General Manager has retained the services of a Temporary Administrative Assistant, Kalena Yambao. To simplify reporting and payroll and streamline the hiring process, Kalena was retained through Aerotek, a temporary staffing agency. Kalena started on June 4, 2019, under an existing agreement with Aerotek signed in 2017. On July 18, 2019, the Commission approved a Purchase Order with Aerotek for \$17,600 to cover Kalena's services through August 23, 2019.

**Discussion**

Juanita continues to undergo treatment and staff does not expect her to return full-time in August. Her leave has been extended, and her actual return date is not yet known. In order to ensure continuity of coverage, staff is requesting authorization to amend the Purchase Order (PO) for Kalena's services through Aerotek to cover the period up to Thanksgiving. That will represent approximately six months of temporary employment, which is the limit over which CalPERS reporting is required. Kalena's pay rate is \$35 per hour, for which Aerotek is charging the Authority \$55 per hour. To cover the period between August 26 and November 27, 2019, staff is requesting the addition of \$30,000 for a total of \$47,600.

If Juanita returns to work full time prior to Thanksgiving, staff proposes a brief period of overlap for handover, and then Kalena's employment will be discontinued. If Juanita's anticipated return date is after Thanksgiving, staff will consider whether to identify another temporary employee to be hired through Aerotek, or to begin recruitment for an employee to be hired directly, and will consult the Committee on these options. Staff recommends that there be overlap between Kalena and her successor to ensure a seamless training period and handover, which means that a decision will likely be needed in September to ensure that the new individual is in place by the end of October.

In the meantime, staff recommends continuing the part-time temporary employment of Maria through the end of the calendar year to assist with transitions and to help with overflow and backlog work. Maria's half-time employment through December was included in the FY 19-20 budget.

**EAST BAY DISCHARGERS COMMISSION**  
EAST BAY DISCHARGERS AUTHORITY  
ALAMEDA COUNTY, CALIFORNIA

RESOLUTION NO. 19-36

INTRODUCED BY \_\_\_\_\_

**RESOLUTION AUTHORIZING THE GENERAL MANAGER TO ISSUE A CHANGE ORDER TO AEROTEK, INC. FOR TEMPORARY ADMINISTRATIVE ASSISTANT SERVICES IN THE AMOUNT OF \$30,000 FOR A TOTAL NOT TO EXCEED AMOUNT OF \$47,600**

**WHEREAS**, the Administrative Assistant plays a critical role for the East Bay Dischargers Authority; and

**WHEREAS**, the Authority's current Administrative Assistant is currently on medical leave; and

**WHEREAS**, the Personnel Committee supports the hiring of a temporary administrative assistant to perform the duties of the role while the employee is on medical leave; and

**WHEREAS**, in April 2017, the Authority entered into an agreement for temporary staffing services with Aerotek, Inc.; and

**WHEREAS**, in July 2019, the Authority approved a Purchase Order with Aerotek, Inc. in the amount of \$17,600 for Administrative Assistant Services; and

**WHEREAS**, it is in the interest of the Authority to continue to retain a temporary administrative assistant through the agreement with Aerotek.

**NOW, THEREFORE BE IT RESOLVED**, the Commission authorizes the General Manager to issue a Change Order to Aerotek, Inc. on behalf of the Authority in the amount of \$30,000 for a total not to exceed amount of \$47,600.

**SAN LORENZO, CALIFORNIA, AUGUST 15, 2019, ADOPTED BY THE FOLLOWING VOTE:**

**AYES:**  
**NOES:**  
**ABSENT:**  
**ABSTAIN:**

\_\_\_\_\_  
**CHAIR**  
**EAST BAY DISCHARGERS COMMISSION**

**ATTEST:** \_\_\_\_\_  
**GENERAL MANAGER**  
**EAST BAY DISCHARGERS AUTHORITY**  
**EX OFFICIO SECRETARY**