



**ITEM NO. 13**

**PERSONNEL COMMITTEE AGENDA**

**Wednesday, March 15, 2023  
4:00 p.m.**

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

**Committee Members: Azevedo (Chair), Simon**

**The meeting will also be accessible via Zoom video conferencing.**

- **Join the meeting virtually at the following web address:**  
<https://us02web.zoom.us/j/88072899721>
- **Participate via telephone by dialing: 1(669) 900-6833 and enter Meeting ID number: 880 7289 9721**

**P1. Call to Order**

**P2. Roll Call**

**P2A. Request for Remote Appearance Pursuant to AB 2449**

(This action item came to the attention of the Commission and staff subsequent to the agenda being posted (Government Code Section 54953 (b)(4)) to approve member's remote appearance pursuant to AB 2449 (Government Code 54953 (f) (2)).)

**P3. Public Forum**

**P4. State Controller's Government Compensation in California Report for Calendar Year 2022**

(The Committee will review the report submitted to the State Controller's Office.)

**P5. Review of the Authority's Draft Fiscal Year 2023/2024 Compensation Plan**

(The Committee will review the draft FY 2023/2024 Compensation Plan.)

**P6. Review of Revisions to the Personnel Policy**

(The Committee will review the Policy.)

**P7. Review of Revisions to the Commissioner Compensation Policy**

(The Committee will review the Policy.)

**P8. Review of Revisions to the Records Retention Schedule**

(The Committee will review the Policy.)

**P9. Resolution Fixing the Employer's Contribution Under the Public Employees' Medical and Hospital Care Act**

(The Committee will consider the resolution.)

**P10. 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 Juanita Villasenor at [juanita@ebda.org](mailto:juanita@ebda.org) or (510) 278-5910. 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 will be held  
Wednesday, May 17, 2023 at 4:00 p.m.**

**ITEM NO. P4 STATE CONTROLLER'S GOVERNMENT COMPENSATION IN CALIFORNIA REPORT FOR CALENDAR YEAR 2022**

**Recommendation**

For the Committee's information only; no action is required.

**Background**

Government Code (GC) section 53891 requires special districts to submit an annual Government Compensation in California (GCC) report to the State Controller's Office (SCO). Pursuant to GC 53891, the report for the previous calendar year is due no later than April 30. The intent of the report is to capture pay and benefit information for every compensated employee who received a W-2, every elected official who received pay reported on IRS form 1099, and all uncompensated elected officials and/or board members in the calendar year.

**Discussion**

The information reported is consistent with the Authority's Compensation Plan and Commissioner Compensation Policy. The report is attached for the Committee's review and knowledge of what has been submitted.

**State Controller's Office - Local Government Programs and Services Division**

**Special Districts - Government Compensation Report - Calendar Year 2022**

**Preparer Contact Information**

[Refer to the 2022 GCC Reporting Instructions for more details](#)

Entity Name	Alameda - East Bay Dischargers Authority		
Human Resources Web Page	www.ebda.org		
Employees Hold more than One Position?	<input type="text" value="No"/>	(Enter 'Yes' or 'No')	'Save As' Filename
Do the amounts in the Defined Benefit Plan column include payment toward the pension unfunded liability?	<input type="text" value="No"/>	(Enter 'Yes' or 'No')	2022-12500108500.xlsx

Preparer Name	Juanita Villasenor
Phone Number	(510) 278-5910
E-mail Address	juanita@ebda.org

"----- Employer Contribution: -----"

Line #	Elected Position Enter 'Y'	Department	Classification	Multiple Positions Footnote	Annual Salary Minimum	Annual Salary Maximum	Annual Regular Pay	Overtime Pay	Lump Sum Pay	Other Pay	Applicable Defined Benefit Pension Formula	Retirement Plan: Employees' Share Paid by Employer	Deferred Compensation Plan: Employer's Share	Health, Dental, Vision	
															Annual Salary Regular Pay
1.		Governing Body	Commissioner		0	0	0	0	0	6,480	N/A	N/A	N/A	N/A	
2.		Governing Body	Commissioner		0	0	0	0	0	6,480	N/A	N/A	N/A	N/A	
3.		Governing Body	Commissioner		0	0	0	0	0	6,000	N/A	N/A	N/A	N/A	
4.		Governing Body	Commissioner		0	0	0	0	0	5,280	N/A	N/A	N/A	N/A	
5.		Governing Body	Commissioner		0	0	0	0	0	2,400	N/A	N/A	N/A	N/A	
6.		Governing Body	Commissioner		0	0	0	0	0	2,400	N/A	N/A	N/A	N/A	
7.		Governing Body	Commissioner		0	0	0	0	0	240	N/A	N/A	N/A	N/A	
8.		Governing Body	Commissioner		0	0	0	0	0	240	N/A	N/A	N/A	N/A	
9.		Governing Body	Commissioner		0	0	0	0	0	240	N/A	N/A	N/A	N/A	
10.		Governing Body	Commissioner		0	0	0	0	0	0	N/A	N/A	N/A	N/A	
11.		Administration	General Manager		220,360	267,849	262,698	0	0	0	2.5% @ 55	0	32,063	7,794	29,368
12.		Administration	Operations & Maintenance Manager		164,755	200,261	193,353	0	0	13,370	2.5% @ 55	0	23,599	4,986	2,628
13.		Administration	Administration Manager		100,984	122,747	120,386	0	0	0	2.5% @ 55	0	14,693	3,293	29,368
14.		Administration	Administrative Support Specialist		59,405	72,207	28,345	0	0	0	2% @ 62	0	2,135	579	0

**ITEM NO. P5 REVIEW OF THE AUTHORITY’S DRAFT FISCAL YEAR 2023/2024 COMPENSATION PLAN**

**Recommendation**

Provide guidance to staff for adoption of the FY 2023/2024 Compensation Plan.

**Background**

As discussed at the February 2023 Committee Meeting, staff makes a number of assumptions regarding compensation and benefits each year that are incorporated into the annual budget. Each year, the Commission adopts a Compensation Plan that reflects the salaries and benefits provided to Authority employees. The Compensation Plan is generally adopted in May, in parallel with the budget.

**Discussion**

A draft Compensation Plan for FY 2023/2024 is attached for the Committee’s review. The substantive changes are as follows:

- The proposed Salary Schedule includes of a cost-of-living adjustment (COLA) based on EBDA’s Personnel Policy, using a December-to-December comparison of the local Consumer Price Index (CPI), as shown in the table below.

**Table A. San Francisco-Oakland-Hayward, CA, CPI-U 2-month and 12-month percent changes, all items index, not seasonally adjusted**

Month	2018		2019		2020		2021		2022	
	2-month	12-month	2-month	12-month	2-month	12-month	2-month	12-month	2-month	12-month
February	1.4	3.6	0.5	3.5	0.9	2.9	0.5	1.6	1.4	5.2
April	0.8	3.2	1.2	4.0	-0.5	1.1	1.7	3.8	1.5	5.0
June	0.9	3.9	0.2	3.2	0.7	1.6	0.0	3.2	1.7	6.8
August	0.6	4.3	0.1	2.7	0.0	1.6	0.5	3.7	-0.5	5.7
October	0.7	4.4	1.0	3.0	0.5	1.1	0.7	3.8	1.0	6.0
December	0.1	4.5	-0.5	2.5	0.4	2.0	0.8	4.2	-0.3	4.9

At its February meeting, the Committee recommended updating the Authority’s Personnel Policy to reflect that COLA will be based on CPI with a floor-to-ceiling range of 2-5% (see also Item No. P6). The proposed COLA this year is therefore 4.9%.

- The Authority’s Public Employees' Medical and Hospital Care Act (PEMHCA) contribution has been increased by 3% to \$502, as recommended by the Committee last month (see Item No. P9).

Pending feedback from the Committee, a final Compensation Plan will be proposed for the Commission’s consideration in May.

**EAST BAY DISCHARGERS AUTHORITY  
COMPENSATION PLAN  
JULY 1, 2023 TO JUNE 30, 2024**

<b>MONTHLY SALARY SCHEDULE</b>					
CLASSIFICATION	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5
Administration Manager	8,827.68	9,269.08	9,732.52	10,219.16	10,730.12
Administrative Support Specialist	5,192.98	5,452.62	5,725.26	6,011.52	6,312.10
General Manager	19,263.10	20,226.28	21,237.60	22,299.48	23,414.48
Operations & Maintenance Manager	14,402.36	15,122.48	15,878.60	16,672.54	17,506.16

<b>SUMMARY OF BENEFITS</b>	
BENEFIT	DESCRIPTION
Medicare	The employee and the Authority each pay the Medicare tax rate of 1.45% on taxable earnings.
Retirement – CalPERS Classic Members	Benefit Formula: 2.5% @ 55, 1 year final average compensation Authority shall contribute 100% of the required Employer Normal Cost Rate as determined by the CalPERS annual actuarial valuation. Classic Members <sup>1</sup> shall contribute 100% of the plan's Employee Contribution Rate.
Retirement – CalPERS New Members	Benefit Formula: 2% @ 62, 3 years final average compensation Authority shall contribute 100% of the required Employer Normal Cost Rate as determined by the CalPERS annual actuarial valuation. New Members <sup>2</sup> shall contribute 100% of the plan's Employee Contribution Rate.
Medical Coverage – CalPERS Kaiser Permanente	Insurance premiums paid by Authority for employees and their eligible dependents enrolled in the employer sponsored health plan.
Retiree Medical Coverage – CalPERS	Authority contributes up to a maximum of \$502 per month for EBDA retirees and their eligible dependents enrolled in the employer sponsored health plan. The fixed employer contribution includes the PEMHCA minimum. The minimum qualification for retiree health benefits is five years of continual employment at EBDA.
Dental & Vision Care	Authority pays dental and vision insurance premiums for employees and their eligible dependents enrolled in the employer sponsored programs.
Basic Life Insurance and AD&D	Benefit: 1 x Annual Salary Authority provides basic life insurance and accidental death & dismemberment coverage.
Short Term/Long Term Disability Insurance	Benefit: 66 2/3% of salary Authority provides coverage up to the date of permanent separation from EBDA. Employee must exhaust all available leave. Note: EBDA does not pay into State Disability Insurance.

<b>SUMMARY OF BENEFITS (Continued)</b>	
<b>BENEFIT</b>	<b>DESCRIPTION</b>
Deferred Compensation	An Authority-sponsored deferred compensation plan is available to employees. For participants that defer 0.32% of gross earnings, the Authority contributes 2.32% to the employee's plan account. In addition, employees may elect to defer a voluntary dollar amount to which the Authority will match \$0.50 for each \$1, up to a maximum employer contribution of \$500 per calendar year, per employee.
Holidays	11 paid holidays plus 28 hours of floating holiday annually.

<b>MISCELLANEOUS</b>	
Prorated Benefits	An employee hired or placed into a part-time position will receive prorated benefits proportionate to their scheduled work hours.
Compensatory Time Off	Unclassified, exempt employees do not receive additional payment for overtime. In lieu of payment, the General Manager may adjust working hours to compensate the employee for time worked in excess of 40 hours per week.  Classified, non-exempt employees are compensated at the rate of one and one-half times the employee's regular rate of pay for all hours worked in excess of 40 hours per week. The Authority shall pay overtime worked by non-exempt employees in a manner consistent with the Fair Labor Standards Act.
Calculation Method of Hourly Rate	Hourly rate equivalents shall be determined by dividing the employee's actual monthly salary rate by 173.33, which is considered to be the average number of working hours per month.
Use of Authority Vehicle	The General Manager may authorize the use of Authority vehicles by employees for business travel when determined that such use would be in the best interest of the Authority.
Flexible Spending Accounts (FSA)	Benefit eligible employees may enroll in the Authority's FSA to make pre-tax salary contributions up to the IRS limits.

<sup>1</sup> Definition of a Classic Member – A classic member is defined as:

- An existing member of a California public retirement system as of December 31, 2012. Please note, however, that because new member determination is based on an appointment-by-appointment basis, upon appointment, new hires will be required to self-certify their classic member status by submitting a form that tests against the new member definition and which may ultimately result in a change in status to new member.

<sup>2</sup> Definition of a New Member – A new member is defined as any of the following:

- A new hire who is brought into a California public retirement system membership for the first time on or after January 1, 2013, and who has no prior membership in a California public retirement system.
- A new hire who was an active member of a California public retirement system and who, after a break in service of more than six months, returned to active membership in that system.

## **ITEM NO. P6 REVIEW OF REVISIONS TO THE PERSONNEL POLICY**

### **Recommendation**

Provide direction to staff.

### **Background**

The Authority's Personnel Policy was last revised in November 2020. At that time, the following language was inserted to address cost of living adjustments:

Appropriate consideration shall be given to adjustments of the cost of living as measured by the Consumer Price Index for All Urban Consumers (CPI-U), the base figure for comparison shall be the San Francisco-Oakland-Hayward, CA 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. Beginning with FY 2020/2021, the cost of living adjustment (COLA) shall be based on the above index within a floor-to ceiling-range of 0% - 4.0%. The COLA range shall be reviewed every three years. In adopting a COLA, the Commission may also consider the short- and long-term financial status of the Authority. Effective July 1, by adoption of an amended Compensation Plan, adjustments shall be applied to the salary range of each position to reflect the COLA.

Staff periodically reviews the Personnel Policy to ensure consistency with current applicable laws and industry best practices.

### **Discussion**

As noted above, a COLA range was established for FY 2020/2021, and it is to be reviewed every three years. Based on input from the Committee at its February meeting, staff is recommending that the COLA language be updated for FY 2023/2024 to reflect a floor-to-ceiling range of 2% - 5%.

Staff also recommends updating language in the Sick Leave and Bereavement Leave sections of the Policy to conform to current law. The Authority's legal counsel also assisted staff with revisions to the Family Leave section to clarify the applicability of the California Family Rights Act (CFRA) and the Family Medical Leave Act (FMLA) to EBDA and its employees.

A redline version of the Personnel Policy showing proposed changes is attached. Pending feedback from the Committee, staff will bring the updated Personnel Policy to the Commission for consideration.



# 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  
Revised January 16, 2020  
Revised November 19, 2020

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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.
Full-Time Schedule	The Authority considers full-time employment to be forty (40) hours per week.
General Manager	The General Manager of the Authority, as appointed by the Commission or their 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 limited duration.
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 deemed 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, Transgender 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 the employee from completing assigned duties 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 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 Policy.

## **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 ensure 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 Consumer Price Index for All Urban Consumers (CPI-U), the base figure for comparison shall be the San Francisco-Oakland-Hayward, CA 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. ~~Beginning with FY 2020/2021, the~~ The cost-of-living adjustment (COLA) shall be based on the above index within a floor-to ceiling-range of ~~02%~~ 4.05%. The COLA range shall be reviewed every three years. In adopting a COLA, the Commission may also consider the short- and long-term financial status of the Authority. Effective July 1, by adoption of an amended Compensation Plan, adjustments shall be applied to the salary range of each position to reflect the COLA.

### ***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 an evaluation of the employee's 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. After an employee completes twelve (12) months of continuous service in the same position, the employee may be advanced to the next higher rate of compensation as set forth in the Compensation Plan upon approval of the General Manager. Subsequent step increases shall be effective annually on the anniversary of the employee's hire date until the employee reaches the top step of the range. After reaching step 5, the employee shall remain at the same rate provided for at step 5 while continuing 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 or a Member Agency 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. Failure to respond to communications concerning the applicant's availability for employment.
14. Request by the applicant that their 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 faith 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 their 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 the individual's 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. 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, 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***

In accordance with California Constitution Article 20, Section 3, and as mandated by California Government Code Sections 3100-3109, all public employees are declared to be disaster service workers, and must take and subscribe to an oath of loyalty as a condition of employment.

### ***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.

### ***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.

### ***Temporary Appointments***

If an employee is needed for a temporary period, certification shall be made from the names of those eligible candidates, if any are available, 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.

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, but through a comparable process.

### ***Part-Time Appointments***

If an employee is needed for less than a total of 40 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. The Authority is responsible for following the same recruitment/selection process for part-time employees as for regular, full-time employees.

## **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 Full-Time Status***

Regular full-time employees are not in a temporary status and are regularly scheduled to work the Authority's full-time schedule. Generally, they are eligible for the full benefits package, subject to the terms, conditions and limitations of each benefit program.

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

### ***At-Will Status***

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. 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, provisional, and/or temporary 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 those listed in the [Non-Discrimination section](#) of the General Provisions in Section II. 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.

Rules providing pre-discipline meeting rights and post-discipline appeal rights for discipline or separation for cause do not apply to at-will employees.

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

Part-time positions are those that are required on a long-term basis and are scheduled to work less than 40 hours per week. Part-time employees do not serve a probationary period. At the end of each 2080 hours worked, the part-time employee is eligible for a salary step increase based on satisfactory performance. Such employees serve at the discretion of the General Manager, are at-will, and can be terminated any time, with or without cause. 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.

Part-time employees shall be entitled to participate in the Authority’s benefit programs as specified in the Compensation Plan. The Authority’s payment toward these insurance programs shall be proportionate to the employee’s scheduled work hours.

***Temporary Employment***

Temporary employees are hired as interim replacements if regular staff are unavailable, to temporarily supplement the workforce, or to assist in the completion of a specific project or set of projects for a limited duration. Employment beyond any initially-stated period does not in any way imply a change in employment status.

Temporary full-time employees are scheduled to work the Authority’s full-time schedule. Temporary part-time employees are scheduled to work less than 40 hours per week. Employees in temporary classes are not eligible for benefits or accrued leaves, with the exception of sick leave.

***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 this Policy 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.

A summary of employment types and relevant status and benefits is provided in the following table:

	<b>Status</b>	<b>Benefits</b>
Temporary Part-time	At-will	Sick leave only
Temporary Full-time	At-will	Sick leave only
Regular Part-time	At-will	All (except deferred compensation and disability) proportionate to scheduled work hours
Probationary Full-time	At-will	All
Regular Full-time	Subject to discipline procedures	All

## **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. This Section does not apply to temporary, probationary, and provisional employees, though the Authority holds these employees to the same high standards of professional conduct. Discipline for at-will employees is at the discretion of the General Manager.

### **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, including temporary, provisional, and probationary employees, are not subject to the requirement of good cause, and are not entitled to pre-discipline procedures or appeals under these policies and may be separated with or without advance notice.

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 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 assigned 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) Intimidation or interference with the rights of any employee.
- v) 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.
- w) Failure to maintain the minimum qualifications, including necessary licenses or certifications specified for the position.
- x) Abusive or intemperate language toward or in the presence of others in the workplace.
- y) 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 of suspensions of more than four (4) working days, a reduction in pay resulting in loss of pay equal to or exceeding a suspension of more than four (4) days, demotion or termination (serious discipline), employees shall retain pre-discipline meeting and post-discipline appeal rights as described below.

### Pre-Discipline Meeting

For serious discipline, 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 their 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 their designee.

### Final Action

After the employee responds to the charges, they 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 serious discipline, employees shall have the right to appeal 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 mediator from another recognized organization; or a neutral mediator 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**

### ***Hours of Work***

A full-time employee shall be scheduled to work a forty (40) hour work week within a seven (7) day work period. Employees may vary their starting and ending times with management approval, and provided there is sufficient coverage during the hours the Authority is open to the public.

The General Manager may vary the working hours of any employee within the limits of State Law or other labor regulations should the need arise. 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 disciplinary action.

### ***Overtime***

Authorized or required work performed by non-exempt employees in excess of forty (40) hours per week shall be deemed overtime.

### ***Overtime Rate***

Overtime shall be paid at the rate of one and one-half (1.5) times the straight-time hourly rate. Overtime hours may be paid on the next regular pay check. With the approval of the General Manager prior to performance of the overtime work, employees may choose to receive compensatory time off rather than overtime pay. Compensatory time shall be used or paid to the employee 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 their normal working hours, a minimum of two hours shall be recorded.

***Exception***

Exempt positions shall not accrue overtime but may 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's 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. A part-time employee's holiday leave shall be proportionate to their scheduled work hours.

***Floating Holidays***

Full-time employees are allotted twenty-eight (28) hours of floating holiday to be used within the fiscal year, July 1 – June 30. Use of the allotted hours shall be approved by the General Manager. Floating holiday leave hours do not accrue and employees will not be compensated for unused hours.

A person hired after July 1, or a temporary full-time employee hired to work for less than 12 months, shall be provided the pro rata share of floating holiday hours for the number of months of work in the fiscal year compared to the annual allotment of twenty-eight (28) floating holiday hours per year.



Floating holiday hours shall be reconciled upon an employee's permanent separation from the Authority. Hours used in excess of those earned shall be deducted from the employee's final pay.

### ***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 at the rate of one and one-half (1.5) times the straight-time hourly rate.

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

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

Vacation leave is an earned benefit of eligible employees and its use shall be approved by the General Manager. Employees shall take vacation leave in increments of one (1) hour. Leave begins to accrue upon date of hire, but shall not be granted to the employee for use during the first six (6) months of employment. Vacation is accrued for all regular hours worked and shall continue to be earned during other authorized leaves with pay.

### **Vacation Leave Allowance**

All full-time employees shall earn vacation leave at the rate of 80 working hours per year from the date 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. Part-time employees shall earn vacation leave proportionate to their scheduled work hours.

All eligible employees shall be permitted to accumulate unused vacation at a rate of 2-1/2 times their annual vacation allowance. Vacation accruals will be reviewed at the end of each fiscal year. If the accrual exceeds 2-1/2 times the annual allowance, 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.

### **Computing and Recording Vacation Leave**

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.

On July 1st of each year, employees who have completed at least six months of satisfactory full-time continuous service 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 the employee's accrued leave.

Vacation leave shall be reconciled upon an employee's permanent separation from the Authority. Unused vacation leave is not transferable to retirement service credit. Leave used in excess of earned leave shall be deducted from the employee's final pay. Leave that is earned but unused at the time of separation shall be added to employee's final pay.

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

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, or designated person. A "designated person" means a person identified by the employee at the time the employee requests paid sick leave. This definition does not require the person be related by blood, or even a family-equivalent relationship. 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.

### ***Sick Leave Accrual***

Employees who work thirty (30) days or more within a year shall receive sick leave in accordance with the Healthy Workplace, Healthy Families Act of 2014.

Regular and Temporary Full-time employees accrue sick leave at the rate of four (4) hours per payroll period, up to 96 hours per calendar year. Part-time employees shall accrue sick leave proportionate to their scheduled work hours, with a minimum of 24 hours per year. Sick leave shall be cumulative without limit.

### ***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 their 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 forty (40) hours 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

CalPERS' sick leave credit benefit is included in the Authority's pension contract. An employee whose effective date of retirement is within four months of separation from employment shall be credited with 0.004 year of service credit for each unused day 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**

Full-time regular employees, shall be granted bereavement leave with pay not to exceed twenty-four (24) hours, as necessary, upon the occasion of the death of a ~~close relative~~ family member. ~~A family member is defined as a spouse, domestic partner, child, parent, parent-in-law, sibling, grandparent, or grandchild. When additional time is desired, employees may be allowed to take accumulated vacation leave.~~ An employee may also use other available paid time off such as vacation pay, personal leave, sick leave, or compensatory time off during their leave. ~~Close relatives are defined as the employee's mother, father, brother, sister, wife, husband, domestic partner, child, grandparent, current mother-in-law or current father-in-law.~~ 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 (i.e., excludes temporary, probational, 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.
- Use of catastrophic leave must be approved by the General Manager.

Employees may donate vacation leave on a voluntary basis. The employee making the donation must authorize in writing that a designated portion of their accrued vacation may be transferred from their 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 eighty (80) hours of their own vacation leave.

### **Family Leave**

The California Family Rights Act (CFRA) and Family Medical Leave Act (FMLA) entitle eligible employees of covered employers to take unpaid, job-protected leave for certain specified reasons. While EBDA is a covered employer under the CFRA and FMLA, only leave benefits under the CFRA are available for eligible employees. The maximum amount of leave employees may use under this policy is twelve (12) weeks within a 12-month period.

Employees that meet the following conditions are eligible for CFRA leave:

- the employee has worked for EBDA for at least twelve (12) months; and
- the employee worked at least 1,250 hours in the 12 months prior to their leave.

Eligible employees may take CFRA leave for any of the following reasons:

- To care for or bond with a newborn child.
- To care for or bond with a child placed with the employee and/or the employee's registered domestic partner for adoption or foster care.
- To care for an immediate family member (spouse, parent, parent-in-law, registered domestic partner, child or registered domestic partner's child of any age, sibling, grandparent, grandchild or designated person) with a serious health condition. A "designated person" means any individual related by blood or whose association with the employee is the equivalent of a family relationship.

~~The California Family Rights Act (CFRA) And Family Medical Leave Act (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. Full-time employees are eligible for short-term disability leave as outlined in the Compensation Plan.~~

### **Time Off to Vote**

An employee may take time off to vote at the beginning or the end of the shift, whichever provides the most time to vote. The employee may take off no more than two (2) hours without loss of pay, providing that reasonable notice is given to their supervisor.

### ***Jury and Witness Duty***

Leave is provided for employees who are called to serve jury duty or who are summoned to appear as a witness in a judicial proceeding, pursuant to a subpoena or other court order. Employees must notify the Authority as soon as practicable of the need for leave under this policy. Employees will receive time off with regular base pay for the length of service. If an employee does not have to attend court, the employee is expected to report to work. Any jury fees received by an employee shall be remitted to the Authority. Reimbursements for mileage or food may be retained by the employee.

### ***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, additional compensation equal to the difference between said employee's regular pay and 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, the employee's 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 regular employee (i.e. excludes temporary, probational, and part-time employees), 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 their 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, the employee shall pay to the Authority an amount equal to 100% of medical, dental, vision and 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, they may re-enroll during the Open Enrollment period upon return to work.

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

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. 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 their 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 is believed to be an injury or illness arising out of or in the course of employment, the employee 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 the employee's duties, or affect safety or health of fellow employees, the employee 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 their 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 – ANTI-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 the items listed in the [Non-Discrimination](#) section of the General Provisions in Section II 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 employees are required to complete sexual harassment prevention training and education that meet all requirements outlined by Government Code §12950.1.

## **SECTION XVII – LACTATION ACCOMODATION POLICY**

Per California Senate Bill (SB) 142, the Authority will provide a reasonable amount of break time to accommodate an employee desiring to express breast milk for the employee's infant child. The break time shall, if possible, run concurrently with any break time already provided to the employee. The employer shall make reasonable efforts to provide the employee with the use of a room, other than a toilet stall, in close proximity to the employee's work area, for the employee to express milk in private. The room may include the place where the employee normally works.

Employees requesting an accommodation under this policy are responsible for communicating their needs to the General Manager. The General Manager will work with the employee to make the appropriate accommodations needed, including allowing for flexible break periods if necessary.

Management will not discriminate or retaliate against any employee for exercising or attempting to exercise their rights under this policy.

If an employee feels that their rights, as described in this Policy, have been violated, they may file a complaint with the California Labor Commissioner.

## **SECTION XVIII – 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 in accordance with [Section X](#), Discipline and General Rules of Conduct, 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 (i.e. excludes temporary, probationary, and part-time employees) 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 their immediate supervisor, the employee 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 Step 1, they 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 Step 2, they 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 XIX – 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~~administrative staff.

## **SECTION XX – 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 investments 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 and the General Manager 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, electronic mail (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.

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.

Authority e-mail is to be used for business purposes only and is considered Authority property. 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. Inappropriate or offensive messages are prohibited. Passwords are assigned in complete confidence. Employees are not to share their passwords with

anyone. Upon suspecting that someone has learned their password, the employee shall contact the General Manager immediately.

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.

Employees must comply with submitting data from personal cell phones used for Authority business in the event of a public records request for such information.

### ***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.

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. 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 employees 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 an employee is asked questions about the Authority or its current or former employees, the employee is to refer that individual(s) to their supervisor. A decision will then be made as to whether that individual may conduct any interview. Similarly, an employee becomes aware of an unauthorized interview occurring at the Authority, they 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.

**ITEM NO. P7 REVIEW OF REVISIONS TO THE COMMISSIONER COMPENSATION POLICY**

**Recommendation**

Provide direction to staff.

**Background**

Per the Sanitary District Act of 1923, Commissioners may receive compensation for each day of service in an amount adopted by the Commission. In December 2020, the Commission adopted the Authority's Commissioner Compensation Policy, fixing the rate per day of service and outlining the activities that are eligible for compensation.

**Discussion**

At its February 2023 meeting, the Personnel Committee reviewed the Commissioner Compensation Policy and requested revisions to the list of meetings and activities eligible for compensation, as well as the list of activities that are ineligible. The Committee also discussed the fact that Government Code Section 61047, which is currently referenced in the Policy, does not apply to EBDA. Based on the Committee's direction, staff has proposed the attached revisions to the Policy. A redline version is included for reference.

In February, the Committee also discussed the rate per day of service, which has been \$240 per day since January 1, 2019. This compensation rate may be adjusted by up to 5% annually by action of the Commission. In December 2022, the Committee recommended maintaining the current rate of \$240 per day of service, and the Commission concurred. In February 2023, the Committee recommended increasing the daily rate at the end of this calendar year, effective January 1, 2024.

Pending feedback from the Committee, staff will bring an updated Commissioner Compensation Policy incorporating the eligibility revisions to the Commission for consideration in April 2023. Staff will then work with the Committee to revisit the daily rate at the end of 2023 and bring forward additional revisions as necessary.

**POLICY NUMBER:** 5

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**NAME OF POLICY:** Commissioner Compensation

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**LAST REVISED:** ~~December 17, 2020~~ TBD

**PREVIOUSLY REVISED:** December 17, 2020 ~~NA~~

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**PURPOSE:** The purpose of this Policy is to prescribe the manner in which Authority Commissioners may be compensated and/or reimbursed for actual and necessary expenses related to official business of the Authority as well as for attendance at professional, educational, or vocational meetings.

**POLICY:** It is the policy of the Authority to provide fair and appropriate compensation for Commissioners performing their official duties.

Per the Sanitary District Act of 1923, Health and Safety Code sections 6400 et seq. Health and Safety Code section 6489(a) provides that board members may receive compensation not to exceed one hundred dollars (\$100) “for each day's attendance at meetings of the board or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incident thereto.” Health and Safety Code section 6489(b) provides that the board may adopt by ordinance an increased amount of compensation received by board members above the amount of one hundred dollars (\$100) per day.

On this basis, Commissioners shall be paid per day, not per meeting. Effective January 1, 2019, the current daily compensation rate is \$240 for each day of service (Resolution 18-40). This compensation rate may be adjusted by up to 5% annually by action of the Commission. The Authority shall compensate Commissioners for up to six days of service per month.

The following activities shall be considered Commission service eligible for compensation:

- Attendance at Authority Commission Meetings, Committee Meetings, or other Commission workshops or meetings subject to the Brown Act
- Representing the Authority at meetings or events at the request of Authority staff or Commission

- Attendance at any meeting solely with Authority staff, including other than a tour or special training two hours or longer

For the events above, Commissioners shall be entitled to the daily service stipend as well as reimbursement for associated travel costs.

For other activities, including conferences, meetings, and professional development, Commissioners shall be compensated by their home agencies. Commissioners may seek exceptions whereby the Authority provides compensation by requesting pre-approval by the Commission. The Commission may consider pre-approving compensation for these and any other activities on a case-by-case basis.

For additional clarity, ~~under Government Code Section 61047,~~ the following activities are ineligible for compensation ~~and therefore the Commission cannot approve them as being eligible for compensation:~~

- Attendance at meeting of a Standing, Liaison, Ad Hoc, or Advisory Committee ~~of the Board~~ on which the Commissioner does not serve
- ~~Attendance at any meeting solely with Authority staff other than a tour or special training two hours or longer~~
- Internal Authority events, including groundbreaking, ribbon cuttings, dedications, and anniversary celebrations
- Social gatherings such as retired Commissioner dinners and pre-conference activities and nonpartisan welcoming or retirement events for staff of local agencies and organizations
- Meetings with legislators other than at a public meeting conducted pursuant to the Brown Act
- Any activity for which a Commissioner receives compensation from another agency



**ITEM NO. P8 REVIEW OF REVISIONS TO THE RECORDS RETENTION SCHEDULE**

**Recommendation**

Provide direction to staff.

**Background**

In October 1993, the Authority adopted its Records Management Policy and Records Retention Schedule. The Policy provides guidance for the efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all Authority records.

In 2021, staff determined that a comprehensive overhaul of the policy was necessary. Staff considered the Secretary of State (SOS)'s Local Government Records Management Guidelines when drafting revisions to the policy, deviating from them slightly at times, for example where staff prefer a longer retention. Updated Policy and Retention Schedules were adopted in February 2021.

**Discussion**

The Authority's Records Management Policy states that revisions of retention periods shall be submitted for review and approval every five years or when changes are required by law. Senate Bill 807, adopted in late 2021, increased employers' requirement to retain personnel records from 2 to 4 years. Therefore, staff recommends updating the Retention Schedule to conform to current law. A redlined version of the Retention Schedule is attached. Pending feedback from the Committee, staff will bring the Schedule to the Commission for approval.

East Bay Dischargers Authority Records Retention Schedule  
Last Updated: February 18, 2021

Category	Record Title	Descriptor	Active	Archive
Administration	Agenda Packets	Commission agenda, Reports, Supporting Documentation	3	P
Administration	Agreements CIP	Construction	5	P
Administration	Agreements/Contracts	Excludes CIP, Encroachment permits	CU + 4	
Administration	Conflict of Interest	FPPC Filings, SEI, Policy	CU + 4	
Administration	Correspondence & Reports	Not attached to agreement or project, includes email correspondence	CU + 5	
Administration	Grant Files	Applications, Reports, Contracts	5	P
Administration	Insurance	Bonds and policies insuring the Authority	5	P
Administration	Insurance Certificates	Filed separately from contracts	T + 5	
Administration	Insurance Claims	Paid/Denied	5	P
Administration	Minutes, Commission Meetings	Official minutes	P	
Administration	Permits NPDES	Permits and compliance documents	P	
Administration	Permits Other	BAAQMD, Recycled Water - permits and compliance docs	P	
Administration	Photos	Construction	P	
Administration	Policies/Procedures		S + 5	
Administration	Project Files	CIP and non, includes Project Claims	T + 5	
Administration	Property Records	Acquisition, Disposition, Deeds, Maps, Specs	P	
Administration	Public Records Request		CL + 2	
Administration	Records Management	Destruction Log	P	
Administration	Reports, Self Monitoring (NPDES)		5	
Administration	Resolutions	Legislative actions	P	
Administration	Risk Management	OSHA Forms, Safety Reports, Actuarial Studies	5	
Administration	Recordings of Commission Meetings		6M	
Administration	NPDES Data	Analytical data and associated methods and qualifiers	5	
Administration	Reclamation	Monthly Reports	5	P
Administration	NPDES Annual Reports		5	P
Finance	Accounts Payable	VPWs, EFTs, Invoices, Supporting Documents	CU + 1	10
Finance	Audit Reports	Basic Financial Statements	AU + 4	P
Finance	Audit Workpapers		AU + 2	
Finance	Treasurers Report	Treasurers Report, including Supplemental Treasurers Report	CU + 2	

East Bay Dischargers Authority Records Retention Schedule  
Last Updated: February 18, 2021

Category	Record Title	Descriptor	Active	Archive
Finance	Bank Statements	Bank, Investments, LAIF	CU + 2	
Finance	Budget Workpapers	Draft reports, Supporting Documents	CU + 4	
Finance	Budget	Annual Commission-approved	CU + 4	P
Finance	Cash Receipts	Deposits	CU + 4	
Finance	Checks	Check Copies, including canceled & voided	CU + 4	
Finance	Depreciation Schedules		10	P
Finance	Disbursement Register	Bank Register Reports	CU + 4	P
Finance	Fixed Assets Inventory		10	P
Finance	General Ledgers		CU + 4	P
Finance	Trial Balance		CU + 4	P
Finance	Invoices	Invoices, Related Documents	CU + 4	5
Finance	Journal Entries		CU + 4	P
Finance	Payroll Records	EE File: Deduction Authorizations, Beneficiary Designations, Unemployment Claims, Garnishments, Deferred Compensation, PERS	P	
Finance	Payroll Register		P	
Finance	Payroll Tax	Forms 1096, 1099, W-4 and W-2; DE-542 Federal & State	CU + 4	P
Finance	Payroll Timesheets	EE signed	CU + 4	
Finance	Purchase Orders		CU + 4	
Finance	Purchasing	Bids, RFQ, RFP	AU + 4	
Finance	State Controller Reports	FTR & GCC	CU + 4	P
Human Resources	Employee Programs	Benefits, Workers Comp	5	P
Human Resources	Personnel Data Files	Classifications, Evaluations	10	L
Human Resources	Recruitment Files		3, 4	
O&M	Plans & Specifications	As-builts, (shop drawings if no as-builts)	P	
O&M	Vehicle		L	
O&M	Charts, Operational Data Recording	Flows, Residuals, Trends	5	
O&M	Manuals, Standard Operating Procedures		S	
O&M	Maps	Line Location; Easements; Facility Maps	P	
O&M	SDS (Safety Data Sheets)		S	30
O&M	Preventive Maintenance	Requests, Completed	10	

**Legend**

- AU = Audit
- CU = Current Year
- P = Permanent
- T = Termination
- CL = Closed/Completion
- L = Life
- S = Supersede

**ITEM NO. P9 RESOLUTION FIXING THE EMPLOYER'S CONTRIBUTION UNDER THE PUBLIC EMPLOYEES' MEDICAL AND HOSPITAL CARE ACT**

**Recommendation**

Adopt the resolution fixing the Authority's monthly contribution under the Public Employees' Medical and Hospital Care Act (PEMHCA) at \$502.

**Background**

The CalPERS Health Program is governed by the Public Employees' Medical and Hospital Care Act (PEMHCA), and the California Code of Regulations, of the California Public Employees Retirement Law (PERL). PEMHCA contains the rules and regulations that a contracting agency must adhere to. EBDA has elected to participate in the CalPERS Health Program and provides Kaiser and Medicare for employees and retirees. Catastrophic illnesses do not affect coverage or premium rates, which are negotiated on an annual basis.

The monthly employer contribution amount must be equal for both active employees and annuitants, but may not be less than the minimum employer contribution amount as prescribed by Section 22892 of the Act, which is currently \$151. The employer can elect to provide coverage beyond the adopted amount. Currently, EBDA provides full medical benefits to full-time employees, equivalent to Kaiser family coverage. Four of EBDA's six retirees receive the adopted PEMHCA amount or full coverage under Medicare, if applicable. Two retirees receive full medical coverage based on their negotiated contracts.

An agency must file a CalPERS change resolution to change the monthly employer health contribution. Contracting agencies may change their employer contribution at any time of the year. A change resolution becomes effective on the first day of the second month in which the resolution is filed and received by CalPERS.

**Discussion**

On March 17, 2022, the Commission adopted Resolution 22-04 fixing the EBDA contribution amount at \$487 per month. The current Kaiser premium for a typical retiree in the Bay Area is \$914 per month. With a spouse, it jumps to \$1,827 per month. In light of the high cost of health coverage, at its February 2023 meeting, the Personnel Committee recommended a 3% increase to EBDA's contribution amount, bringing it to \$502. The total effect on EBDA's budget of increasing the PEMHCA by 3% would be a maximum of \$720 annually.

The CalPERS resolution for adoption of changes to the rate is included for the Commission's consideration. Note that agencies are not permitted to add, edit, or remove language from the template resolution. CalPERS may reject resolutions with additional language or changes.

**RESOLUTION NO. 23-02**  
**FIXING THE EMPLOYER CONTRIBUTION**  
**UNDER THE PUBLIC EMPLOYEES’ MEDICAL AND HOSPITAL CARE ACT**  
**AT AN EQUAL AMOUNT FOR EMPLOYEES AND ANNUITANTS**

- WHEREAS, (1) East Bay Dischargers Authority is a contracting agency under Government Code Section 22920 and subject to the Public Employees’ Medical and Hospital Care Act (the “Act”); and
- WHEREAS, (2) Government Code Section 22892(a) provides that a contracting agency subject to Act shall fix the amount of the employer contribution by resolution; and
- WHEREAS, (3) Government Code Section 22892(b) provides that the employer contribution shall be an equal amount for both employees and annuitants, but may not be less than the amount prescribed by Section 22892(b) of the Act; now, therefore be it
- RESOLVED, (a) That the employer contribution for each employee or annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan up to a maximum of \$502.00 per month, plus administrative fees and Contingency Reserve Fund assessments; and be it further
- RESOLVED, (b) East Bay Dischargers Authority has fully complied with any and all applicable provisions of Government Code Section 7507 in electing the benefits set forth above; and be it further
- RESOLVED, (c) That the participation of the employees and annuitants of East Bay Dischargers Authority shall be subject to determination of its status as an “agency or instrumentality of the state or political subdivision of a State” that is eligible to participate in a governmental plan within the meaning of Section 414(d) of the Internal Revenue Code, upon publication of final Regulations pursuant to such Section. If it is determined that East Bay Dischargers Authority would not qualify as an agency or instrumentality of the state or political subdivision of a State under such final Regulations, CalPERS may be obligated, and reserves the right to terminate the health coverage of all participants of the employer; and be it further
- RESOLVED, (d) That the executive body appoint and direct, and it does hereby appoint and direct, General Manager to file with the Board a verified copy of this resolution, and to perform on behalf of East Bay Dischargers Authority all functions required of it under the Act; and be it further
- RESOLVED, (e) That coverage under the Act be effective on July 1, 2023.

Adopted at a regular meeting of the East Bay Dischargers Authority Commission at San Lorenzo, this 17th day of March, 2023.

Signed: \_\_\_\_\_  
Chairperson

Attest: \_\_\_\_\_  
General Manager