

BAY AREA WATER SUPPLY AND CONSERVATION AGENCY
PARTICIPATION AGREEMENT FOR THE WATER LOSS MANAGEMENT PROGRAM

JULY 1, 2020 TO JUNE 30, 2021

The Bay Area Water Supply and Conservation Agency (BAWSCA) administers a Water Loss Management (Program), under which Water Systems Optimization, Inc. (Contractor) supports participating BAWSCA agencies in reducing water losses to an economically optimized level and in complying with water loss requirements implemented by the State of California. This Participation Agreement is for the retroactive term commencing July 1, 2020 through June 30, 2021.

BAWSCA has entered into a professional services agreement (PSA) with Contractor, attached hereto as Attachment 1 (the PSA). Program details are provided in the Exhibit B of the PSA.

The respective roles and responsibilities of BAWSCA and each Participating Agency are outlined below:

BAWSCA's Roles and Responsibilities:

1. Overall Program management and coordination.
2. Coordinate Regional Water Loss Control Work Group.
3. Maintain program bill and budget information.

Participating Agency's Roles and Responsibilities:

1. Agreement to Program Scope of Work (Exhibit B of the PSA).
2. Provide data and respond to Contractor inquiries to complete selected Program tasks to Contractor in a timely manner.
3. Cooperate with BAWSCA in the administration of the Program.

Participating agencies may be required to pre-pay BAWSCA a deposit of 100% of the maximum program cost shown in line 7 of the table on page 2. BAWSCA will determine whether the deposit account will be required upon receipt of the applications and will notify the Participating Agencies of its determination. If a deposit is required, BAWSCA will invoice individual Participating Agencies for the full deposit amount. Participating Agencies can add funds to their deposit account at any time during the Program period. Each Participating Agency's funds will be separately accounted for and the interest tracked individually. The deposit account will be used by BAWSCA to pay Contractor for the Program implementation costs monthly. On a monthly basis, BAWSCA will invoice each Participating Agency for its Program costs, detailing use of the deposit account, and identifying the remaining budget balance. At the end of the year, each Participating Agency will have the option of receiving a check for any remaining balance in the deposit account or applying the remaining balance to participation in next year's Program.

Each Participating Agency may terminate participation in the Program or revise its participation level upon 30 days written notice to BAWSCA. Participating Agencies electing to terminate their participation will be responsible for all costs related to the Participating Agencies' participation in the Program up to the effective date of termination.

***Prior to finalizing this Application, Agency Representative should contact Kate Gasner, representing the Contractor team, to review requested program details to ensure program success. Contact Kate at kate.gasner@wso.us or 415-533-0419.**

1. *NAME OF AGENCY*:*

2. *CONTACT PHONE*:*

City of San Jose Municipal Water System

408-277-3671

3. *CONTACT PERSON*:*

4. *CONTACT EMAIL*:*

Jeff Provenzano

Jeffrey.Provenzano@sanjoseca.gov

Program Item	Subtask Selection	Unit Cost x Quantity	Total Cost
A. Level 1 Validation	<input checked="" type="checkbox"/> Level 1 Validation	\$2,500	\$2,500
1. Program Management	<input type="checkbox"/> 1.a Ongoing Administration	\$390 x <input type="text"/> # of subtasks selected from 2.a, 2.b, 2.c, 2.d, 2.e, 3.a, 3.b, 4.a, 4.b	\$0
	<input type="checkbox"/> 1.b Monthly Status & Budget Updates	\$730	\$0
2. Water Audits & Data Sources	<input type="checkbox"/> 2.a Water Audit Compilation	\$4,320	\$0
	<input type="checkbox"/> 2.b Billing Data Analysis	\$4,480	\$0
	<input type="checkbox"/> 2.c Source Meter Volumetric Accuracy Testing	\$4020 x <input type="text"/> # of tested meters	\$0
	<input type="checkbox"/> 2.d Field Pressure Survey	determined upon discussion with Contractor about system setup (starts at \$10K and scales to size of survey)	\$0
	<input type="checkbox"/> 2.e Water Audit Miscellaneous Support	determined upon discussion with Contractor about audit support needs (rates in Table 1 below)	\$0
3. Leakage Analysis & Recovery	<input type="checkbox"/> 3.a Real Losses Component Analysis	determined upon discussion with Contractor about repair data (between \$4K and \$15K given extent and readiness of repair data)	\$0
	<input type="checkbox"/> 3.b Leak Detection – Preparation & Kick Off	\$2,220 (required if conducting leak detection)	\$0
	<input type="checkbox"/> 3.c Leak Detection – Survey	<input type="text"/> mileage to be surveyed price based on tiered rate described below (Table 2)	\$0
4. Customer Meter Accuracy & Testing	<input type="checkbox"/> 4.a Apparent Loss Analysis	\$7,720 4.a required if conducting Task 4.b, meter accuracy testing	\$0
	<input type="checkbox"/> 4.b Customer Meter Accuracy Testing	See Separate Agreement	\$0
5. Report Preparation	<input type="checkbox"/> Reporting	\$2,520 x <input type="text"/> # of subtasks selected from Tasks 2.a, 2.c, 2.d, 2.e, 3.a, 3.b, 4.a	\$0
6. BAWSCA Administration Fee			\$0
7. Maximum Program Cost		Total Items 1 - 6	\$2,500

Table 1. Hourly Rate Table for additional services (Task 2.e)

Role	Rate (hourly)
Project Advisor	\$ 260
Project Director	\$ 210
Project Manager	\$ 180
Analyst	\$ 140

Table 2. Comprehensive Leak Detection Mileage Rate Table (Task 3.b)

Mileage Surveyed	\$/mile
Mile 1 through Mile 50	400
Mile 51 through Mile 100	350
Miles 101 +	300

Notes:

1. Please reference "Exhibit B – Scope of Work Update" for explanation of work involved in each task and for an explanation of why an agency would sign up.
2. BAWSCA Administration Fee required for participation.
3. Task dependencies to highlight in the above task selection table:
 - Task 1.a and 1.b Program Management costs are required if any items beyond Task A – Level 1 Validation are selected.
 - 3.b Leak Detection – Kick Off is required if 3.c Leak Detection – Survey is selected.
 - 4.a Apparent Loss Analysis is required if 4.b Customer Meter Accuracy Testing is selected.
 - Task 5 – Reporting is required if any of tasks beyond Task A – Level 1 Validation are selected (except for Task 2b).

Timeline

To memorialize this arrangement, please have the enclosed copy of this Application to Participate executed by an individual authorized to enter into such agreements and return it to BAWSCA, attention Andree Johnson. Agencies can enroll on an ongoing basis.

By submitting this Application to Participate, the Participating Agency agrees to pay its share of the Program costs, up to the maximum in line 9. within thirty (30) days of its receipt of an invoice from BAWSCA. In addition, the Participating Agency represents it has reviewed the PA attached hereto as Attachment 1; and the Participating Agency hereby acknowledges and finds acceptable the terms and conditions of the PSA including all of its exhibits. The Participating Agency is responsible for working with Contractor to ensure it remains within the Maximum Program Budget. Participating Agency agrees to hold BAWSCA harmless from any claims or actions arising from Contractor's performance or any allegation that materials or services provided by Contractor infringe or violate third party intellectual-property right. The person signing below represents and warrants that they are authorized by the Participating Agency to bind the Participating Agency to this Participation Agreement.

Sarah Zarate

Date: 7/2/21

Sarah Zarate
 Director, Office of the City Manager
 City of San José

As to form:

Colleen Winchester

Jun 30, 2021

Date: _____

Colleen Winchester
 Senior Deputy City Attorney
 City of San José

Memorandum

TO: Sarah Zarate
Director, Office of the City Manager

FROM: Kerrie Romanow
Environmental Services Director

SUBJECT: Approval of Retroactivity

DATE: June 28, 2021

Approved

Sarah Zarate

Date

7/2/21

SUBJECT: APPROVAL OF RETROACTIVITY FOR THE PARTICIPATION AGREEMENT WITH BAY AREA WATER SUPPLY AND CONSERVATION AGENCY

In June 2013, the City Auditor released an audit report entitled "Consulting Agreements: Better Enforcement of Procurement Rules, Monitoring, and Transparency is Needed." (City Audit Report No. 13-06.) Recommendation No. 4 (Audit Report pages 16-17) involves limiting retroactive agreements to situations where contract execution is in process. The audit report states that when a City employee informally authorizes work before execution of the agreement, the employee commits City funds not within his/her authority to commit.

The Environmental Services Department is seeking authorization for the retroactive provision to pay for services in the following agreement.

The justification for the requests detailed below that are to include a retroactivity provision is that the agreements were competitively procured and either:

- Its execution was already in process when the services started.
- The services responded to an *immediate* threat to public health, safety, or property.
- The manner of compensation doesn't involve a commitment of City funds.
- The consultant/contractor provided a letter stating that the City isn't obligated to pay for any services it provided if the contract/amendment isn't executed.
- Starting services protected or advanced the following significant City interest:
Allowed for the required validation of a regulatorily-required Water Loss Audit

July 28, 2021

Subject: Bay Area Water Supply and Conservation Agency Participation Agreement

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Justification

The Bay Area Water Supply and Conservation Agency (BAWSCA) is a government entity that represents the interests of 23 agencies, including San José, which purchase wholesale water supplies from the City and County of San Francisco. San José is represented by and on the Board of Directors of BAWCA. BAWSCA conducts thorough procurement processes to offer programs and services for use by the agencies it represents. Historically, through an approved Purchase Order, payment was submitted to BAWSCA for services and water utility compliance related program participation.

Staff utilized a BAWSCA program to obtain the required validation for a Water Loss Audit prepared during August 2020 and subsequently submitted to the California Department of Water Resources to meet regulatory requirements. The Environmental Services Department signed up to obtain this support at a cost of \$2,500 under the approval authority applicable to Service Orders (Attachment A); however, it has since been advised that the form to sign up for such services should have been approved as a Consultant Agreement. Note that the sign-up form, referred to by BAWSCA as a “Participation Agreement,” is only required to be signed by San José.

The Environmental Services Department understands that retroactive agreements are to be avoided. However, in this instance work commenced after obtaining approvals which were later identified to be insufficient. The Environmental Services Department requests an exception be made and the Participation Agreement detailed in this memorandum be allowed to proceed with retroactive clauses. The Environmental Services Department acknowledges the process was out of City contract compliance and will be preparing a Master Agreement/Memorandum of Understanding to utilize such services in the future.


Napp Fukuda (Jul 2, 2021 08:16 PDT)

for

KERRIE ROMANOW
Director of Environmental Services

For questions please contact Jeff Provenzano, Deputy Director, at 408-277-3671.



City of San José Contract/Agreement Transmittal Form

Route Order

Attached / Completed

Electronically Signed

TO: City Attorney
 City Manager
 City Clerk **OR** Return to
Dept. (circle one)

Insurance Certificates / Waivers Electronically Signed: Yes
 Business Tax Certificate Audit Trail Attached (if applicable)
 Contacted Clerk re: Form 700 Scanned Signature Authorization
 Supplemental Memorandums (if applicable): Select One

Type of Document: New Contract

Type of Contract: Professional Services

REQUIRED INFORMATION FOR ALL CONTRACTS:

Existing GILES # OC-000422-000

Contractor: Bay Area Water Supply and Conservation Agency

Address: 155 Bovet Road, Suite 650, San Mateo, California 94402

Phone: 650-349-3000

Email: nashoori@bawsca.org

Contract Description: Participation Agreement for the Water Loss Management Program

Term Start Date: July 1, 2020 Term End Date: June 30, 2021 Extension: No

Method of Procurement: N/A

RFB, RFP or RFQ No.: _____ Date Conducted: _____

Agenda Date (if applicable): _____

Agenda Item No.: _____

Resolution No.: _____

Ordinance No.: _____

Original Contract Amount: 2,500.00

Amount of Increase/Decrease: _____

Option #: ___ of ___ Option Amount: _____

NTE/Updated Contract Amount: _____

Fund/Appropriation: 515-76-600680-4052

Form 700 Required (Selection mandatory for processing): Select one Revenue Agreement: Select one

Tax Certificate No.: NA

Expiration Date: _____

Department: ESD (76)

Department Contact: Nicole Harvie

Customer (Finance Only): _____

Notes: The Bay Area Water Supply and Conservation Agency administers a Water Loss Management program, under which Water Systems Optimization, Inc. supports participating BAWSCA agencies in performing required water loss analysis validations to comply with regulations implemented by the State of California Dept of Water Resources.

Department Director Signature: Napp Fukuda Napp Fukuda (Jul 2, 2021 08:16 PDT) Jul 2, 2021
Date

Office of the City Manager Signature: Jessica Lowry 7/2/21
Date