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**TO:** Kathi Pugh  
Commodore and Board President  
**BAY AREA ASSOCIATION OF DISABLED SAILORS, AN UNINCORPORATED ASSOCIATION**

**FROM:** Walt Raineri, Steve Fisher, Tracy Kennberg, Timmoney Ng, Marianne Tassone  
**FENWICK & WEST LLP**

**DATE:** August 8, 2019

**RE:** Pro Bono Project: Phase I Summary

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**EXECUTIVE SUMMARY**

The Bay Area Association of Disabled Sailors, an unincorporated association operating in the State of California since the early 1990s (“**BAADS UA**”), engaged Fenwick & West LLP (the “**Firm**”), pursuant to that certain engagement agreement dated May 9, 2019 between BAADS UA and the Firm (the “**Agreement**”), to assist BAADS UA in investigating the possibility of migrating its operations from its current form of organization as an unincorporated association to an incorporated form as a California public benefit corporation. Pursuant to the Agreement, the current scope of the project is as follows:

*Given the complexity of the matters you have presented to the Firm; we have made a decision to specifically limit the scope of our engagement initially. We will represent BAADS initially only with respect to (1) investigating its current status as a California Public Benefit Association with State of California State agencies, (2) investigating the status of any corporation with the same or similar name with State of California State agencies, (3) investigating what association and / or corporation organization cleanup work might be needed (without doing any such work) to correct any deficiencies discovered during such investigations, and (4) investigating possible strategies to migrate the BAADS operations, assets and liabilities into a corporation structure without actually implementing any such migration transactions (the “**Representation**”). We do not represent BAADS with respect to any other matter, and we will not do so unless we expressly agree to do so in writing. That is, should our investigations during our Representation identify additional legal work which would need to be done to clean up association and / or corporation deficiencies discovered, a new engagement would need to be established before we would be in a position to do such clean up legal work. Moreover, if during the Representation we identify possible strategies to effectively migrate the BAADS operations, assets and liabilities from an association structure to a corporate structure an additional new engagement would need to be established before we would be in a position to assist with effectuating any such legal transaction work to migrate the BAADS operations, assets and liabilities into a corporate form.*

The Firm has concluded its preliminary investigatory work in what has been labelled “**Phase I**” of this pro bono

project and has come to the following conclusions. Also presented within are our recommendations in the form of a list of action items stemming from our Phase I efforts. Lastly, we summarize the potential next steps of this pro bono project, if BAADS UA chooses to proceed, in what we label as “*Phase II* and *Phase III*”, in the Conclusion section below. Note that to proceed with Phase II and Phase III of this pro bono project, a new engagement agreement will need to be executed, as discussed in the Agreement and in the Conclusion section below.

## DISCUSSION

Our investigation of the activities and operations of BAADS UA has been focused on piecing together the limited information received from BAADS UA personnel, and reconciling this information with the publicly available information we have been able to obtain from governmental agencies such as, e.g., the Office of the California Secretary of State. See, e.g., the historical narrative of the BAADS UA activities presented in *Exhibit A*, attached hereto. It is upon this limited information we have received from BAADS UA personnel, and with follow up investigations with certain State of California agencies, that we have based the following. If BAADS UA personnel discovers any additional relevant information concerning BAADS UA, it is incumbent upon BAADS UA personnel to share such additional information with the Firm as our conclusions below might be materially altered with any such additional information.

### Bay Area Association of Disabled Sailors UA

- 1) By virtue of adopting Articles of Association back in 1990 (see *Exhibit B*), BAADS UA began operating as an unincorporated association within the meaning of Title 3, Part 1, Section 18035 of the California Corporations Code, but by failing to file any notices with the California Secretary of State (“*Cal SOS*”), California Attorney General (“*Cal AG*”), the California Registry of Charitable Trusts (“*Cal RCT*”), or any other State of California agency, it is unknown what official status BAADS UA has with any such agency in terms of being considered an Unincorporated California Public Benefit Association or for any other purpose. It also appears that the Cal SOS has no record or knowledge of the existence of BAADS UA at the present time.
- 2) It appears that BAADS UA has never filed an informational statement with the Cal SOS on Form UA-100 (see example in *Exhibit C*) to inform the Cal SOS of its status as an unincorporated public benefit association operating in the State of California, or to inform the Cal SOS of the address of BAADS UA, or the identities of its directors, officers or agent for service of process. While the filing of the UA-100 appears to be permissive, it is highly recommended and this is Action Item #1, summarized below.
- 3) It appears that BAADS UA, through its officers, mistakenly filed an informational statement with the Cal SOS on Form SI-100 (reserved exclusively for corporations operating within the State of California), using incorrect organization identification information in an attempt to inform the Cal SOS of the address of BAADS UA, and the identities of its directors, officers and agent for service of process. The form states that it is for BAADS Inc., but since BAADS Inc. has no officers and no directors, the information presented on the form can only refer to BAADS UA, which should not have filed the form given that the form is only effective for corporations. See a copy of this form dated in April of 2017 attached on *Exhibit D*. BAADS UA’s filing of the Cal SOS Form SI-100 has confused things a bit given that it is not applicable to unincorporated associations and appears to have had no effect on the status of BAADS UA with the Cal SOS. The filing of this form has also confused the Cal SOS since it apparently believes that the information relates to BAADS Inc., which is not correct based on the information we have received that BAADS Inc. has no directors and no officers. It is recommended that BAADS UA, while it remains an unincorporated association, not file any additional Cal SOS SI-100 Forms in the future to prevent further confusion. This is Action Item #2, summarized below. Only if and when BAADS UA is successful in migrating its assets, liabilities and operations to a successor California public benefit corporation in a merger transaction would the successor corporate entity file such Cal SOS SI-100 forms

in the future.

- 4) It appears that BAADS UA may never have filed a notice with the Cal AG to inform the Cal AG of its operations as an unincorporated public benefit association within the State of California within 6 months of forming. It also appears that BAADS UA had for a number of years failed to file the annual Cal AG Form RRF-1 with the Cal RCT which put BAADS UA into delinquent status with the Cal AG. As a result of the Firm's current inquiries to BAADS UA about the filing of the Cal AG Form RRF-1, it appears that BAADS UA may have recently filed the delinquent Cal AG Forms RRF-1 and that as a result, BAADS UA is currently listed, as of the date of this memorandum, in good standing with the Cal RCT. See print out of status on *Exhibit E*. The annual filing of the Cal AG Form RRF-1 is an annual mandatory filing and is Action Item #3, summarized below. However, it does appear that some time ago, BAADS UA may have requested to be registered as a nonprofit organization with the Cal RCT as evidenced by BAADS UA using a registration number on sporadically filed Cal RCT AG Forms RRF-1. Below we summarize the copies of Cal AG RCT Forms RRF-1 we have received:
  - a. RRF-1 for Calendar Year 2015
  - b. RRF-1 for Calendar Year 2016
  - c. RRF-1 for Calendar Year 2017
  - d. RRF-1 for Calendar Year 2018
- 5) It does appear that at some undetermined time ago, BAADS UA submitted an application with the Internal Revenue Service ("*IRS*") for a taxpayer identification number ("*TIN*") on IRS Form SS4. As a result of submitting its application, BAADS UA received the following TIN 943067409.
- 6) It does appear that at some undetermined time ago, BAADS UA submitted an application with the IRS on IRS Form 1023 to be considered a tax-exempt organization for Federal income tax purposes under the then existing Internal Revenue Code ("*IRC*") Section 501(c)(3) and that application was approved by the IRS in a determination letter dated October 3, 1990, as amended on June 16, 1995. See *Exhibit F*. At the present time, it appears that BAADS UA's name appears on the list of active nonprofit tax-exempt organizations in IRS Publication 78 under its TIN. BAADS UA cannot locate a copy of its originally filed IRS Form 1023 which is required by the IRC to be made publicly available on a reasonable basis to anyone requesting a copy of it. We understand that BAADS UA has recently requested a copy of its originally filed IRS Form 1023 from the IRS. Obtaining a copy of its IRS Form 1023 is highly recommended and this is Action Item #4, summarized below.
- 7) It does appear that at some undetermined time ago, BAADS UA submitted an application with the California Franchise Tax Board ("*FTB*") on FTB Form 3500 to be considered a tax-exempt organization for California taxation purposes under the then existing California Revenue Code ("*CRC*") Section 23701d, and that application was approved in a determination letter dated September 6, 1990. See *Exhibit G*. BAADS UA cannot locate a copy of its originally filed FTB Form 3500. Obtaining a copy of its FTB Form 3500 is highly recommended and this is Action Item #5, summarized below.
- 8) It appears that BAADS UA has been filing its mandatory tax filings with the federal government on IRS Form 990 (or IRS Form 990EZ), when required to do so. The Firm has received copies of the IRS Form 990/990EZs which BAADS UA has claimed to have filed with the IRS for the calendar tax years of 2015, 2016, 2017 and 2018. Given the IRC requirement that recent IRS Form 990s be made publicly available on a reasonable basis to anyone who asks for them, it is recommended that BAADS UA make provisions for such public availability of such documents, and this is Action Item #6, summarized below. Given the IRS requirement that all tax-exempt organizations file IRS Form 990/990EZ for every year it is in operation, it is recommended that BAADS UA ensure that any and all IRS Form 990/990EZ be filed when

due with the IRS for every year BAADS UA is in operation, if BAADS UA has not already done so, and this is Action Item #7, summarized below.

- 9) It appears that BAADS UA has been filing its mandatory tax filings with the Cal FTB on FTB Form 199, when required to do so even though the Firm received a communication from BAADS UA that certain of BAADS UA's officers may not have known of such requirement. The Firm has received copies of the FTB Form 199s which BAADS UA has claimed to have filed with the FTB for the calendar tax years 2015, 2016, 2017 and 2018. Given the FTB requirement that all tax-exempt organizations file FTB Form 199 for every year it is in operation, it is recommended that BAADS UA ensure that any and all FTB Form 199s be filed when due with the FTB for every year BAADS UA is in operation, if BAADS UA has not already done so, and this is Action Item #7, summarized below.
- 10) It appears that BAADS UA has represented itself as an unincorporated association with all of its independent contractors, financial institutions, governmental agencies and the like. It is recommended that BAADS UA strictly represent itself as an unincorporated association with any and all other organizations, agencies, etc. until such time as BAADS UA can effectuate an appropriate merger transaction in which its assets, liabilities, records and operations can be effectively migrated to a successor in interest California public benefit corporation. See Action Item #8 summarized below.

### **Bay Area Association of Disabled Sailors, Inc.**

Our investigation of the activities and operations of Bay Area Association of Disabled Sailors, Inc., a California public benefit corporation ("**BAADS Inc.**"), has been focused on piecing together the limited information received from BAADS UA personnel, and reconciling this information with the publicly available information we have been able to obtain about BAADS Inc. from governmental agencies such as, e.g., the Office of the California Secretary of State. See, e.g., the copies of the Articles of Incorporation for BAADS Inc. filed with the Cal SOS in July of 2015 on **Exhibit H**, attached hereto. It is upon this limited information we have received from BAADS UA personnel about BAADS Inc., and with follow up investigations with certain State of California agencies, that we have based the following. If BAADS UA personnel discovers any additional relevant information concerning BAADS Inc., it is incumbent upon BAADS UA personnel to share such additional information with the Firm as our conclusions below might be materially altered with any such additional information.

- 1) By virtue of filing Articles of Incorporation back in July of 2015, BAADS Inc. was formed as a California public benefit corporation. After that initial incorporation, it appears that no other filings with any State of California governmental agency or federal governmental agency have been made for or on the behalf of BAADS Inc. other than a Cal SOS Form SI100 using incorrect organizational identification information.
- 2) It appears that BAADS Inc. filed one informational statement with the Cal SOS on form SI-100 (see example in **Exhibit D**) in an attempt to inform the Cal SOS of various bits of information. Unfortunately, the information presented on that Form SI-100 pertained to BAADS UA, not BAADS Inc. That is, BAADS UA's officers were named on that form since BAADS Inc. had no officers at that time.
- 3) It appears that BAADS Inc. has never had any directors, officers, or operations since its formation in July of 2015.
- 4) It appears that BAADS Inc. may never have filed a notice with the Cal AG to inform the Cal AG of its operations as an unincorporated public benefit corporation within the State of California within 6 months of forming. It also appears that BAADS Inc. has never filed the annual Cal AG RRF-1 Form with the Cal RCT which has placed BAADS Inc. into delinquent status with the Cal AG.
- 5) It appears BAADS Inc. has never filed an application with the IRS for a TIN on IRS Form SS4, and as a

result BAADS Inc. has no TIN.

- 6) It appears that BAADS Inc. has never submitted an application with the IRS on IRS Form 1023 to be considered a tax-exempt organization for Federal income tax purposes or to be considered the successor in interest to BAADS UA as a result of some appropriately executed merger transaction. As a result, the status of BAADS Inc. with the IRS is unknown.
- 7) It appears that BAADS Inc. has never submitted an application with the FTB on FTB Form 3500 to be considered a tax-exempt organization for California income tax purposes or to be considered the successor in interest to BAADS UA as a result of some appropriately executed merger transaction. As a result, the status of BAADS Inc. with the FTB is unknown.
- 8) It appears that BAADS Inc. has never filed any tax returns with the IRS for any period. It also appears that no analysis has ever been prepared for BAADS Inc. concerning its obligation to file tax returns with the IRS for all periods after BAADS Inc. was created in July of 2015.
- 9) It appears that BAADS Inc. has never filed any tax returns with the FTB for any period. It also appears that no analysis has ever been prepared for BAADS Inc. concerning its obligation to file tax returns with the FTB for all periods after BAADS Inc. was created in July of 2015.
- 10) It appears that no transaction between BAADS UA and BAADS Inc. has ever been planned, documented or consummated.

Based upon these facts and the unknown status of BAADS Inc. on many levels with all governmental agencies with which BAADS Inc. is required to maintain a relationship, it is recommended that BAADS UA terminate its involvement with BAADS Inc. See Action Item #9 summarized below.

### **SUMMARY OF ACTION ITEMS**

- #1: BAADS UA should file Cal SOS UA-100 with relevant and accurate information as soon as possible.
- #2 BAADS UA should not file any additional Cal SOS SI-100 Forms in the future to prevent further confusion with the Cal SOS.
- #3 While BAADS UA still exists, it should annually file the Cal AG RCT Form RRF1.
- #4 BAADS UA should obtain a copy of IRS Form 1023 from the IRS and make publicly available when obtained.
- #5 BAADS UA should obtain a copy of FTB Form 3500 from the FTB and retain in its records when obtained.
- #6 BAADS UA should make its IRS Form 990/990EZs publicly available on a reasonable basis to anyone who asks for them.
- #7 BAADS UA should file any and all required IRS Form 990/990EZ and /or FTB Form 199 with the relevant agencies when due, and for any period for which such forms have not already been filed.
- #8 BAADS UA should strictly represent itself as an unincorporated association with any and all other organizations, agencies, etc. until such time as BAADS UA can effectuate an appropriate merger transaction in which its assets, liabilities, records and operations can be effectively migrated to a successor in interest California public benefit corporation.
- #9 BAADS UA should terminate its involvement with BAADS Inc. which entity seems to have no officers,

no directors, and no activities. BAADS Inc. should retain separate legal counsel to terminate its existence as the Firm only represents BAADS UA at this time and such actions are beyond the scope of the Agreement.

## CONCLUSIONS

Based on the expressed desire of BAADS UA to migrate its assets, liabilities, records and operations to a successor in interest California public benefit corporation the following action plan is recommended for BAADS UA. The Firm can assist with the implementation of this action plan, if requested to provide such assistance on a pro bono basis, but it should be noted that BAADS UA is free to seek the legal assistance of any other legal service provider to implement the recommended action plan, or any other action plan. As noted above, no part of this action plan as it relates to the Firm's efforts will be implemented until and unless a new engagement agreement is executed by BAADS UA.

First, BAADS UA should execute the above list of action items.

Second, if BAADS UA would like the Firm to provide legal assistance in effectuating this action plan in what has been labelled Phase II and Phase III of the pro bono project, then BAADS UA should execute the attached new engagement agreement to move forward with planning for and effectuating an appropriate merger transaction in which the following steps would be implemented (See *Exhibit I*). Only if and after an appropriate new engagement agreement is executed by authorized BAADS UA personnel will the Firm be in a position to move forward to assist BAADS UA with Phase II and Phase III of the pro bono project, which would implement the migration transaction. It must be emphasized that the following is merely a recommended action plan for BAADS UA, and the Firm will undertake no efforts to effectuate this plan unless, and until, BAADS UA executes an appropriate new engagement agreement with the Firm.

1. A new California public benefit corporation would be formed with an appropriate set of articles of incorporation with the Cal SOS with a name of, or similar to, "**BAADS Inc.**" ("***BAADS Incorporated***") Please note that the Firm has determined that the name "BAADS Inc." is available and the Firm has reserved this corporation name for a minor filing fee on behalf of BAADS UA for a period of 30 days. While BAADS UA could choose any name for its successor public benefit corporate entity, it is recommended that BAADS UA choose "BAADS Inc." as its successor in interest name given the current reservation for this corporate name with the Cal SOS.
2. Immediately after the formation of BAADS Incorporated, BAADS Incorporated would appoint an appropriate set of directors and officers.
3. Immediately after the formation of BAADS Incorporated, the board of directors of BAADS Incorporated would adopt an appropriate set of bylaws and other necessary and appropriate governing documents and policies to be a successor in interest to BAADS UA.
4. Immediately after the formation of BAADS Incorporated, BAADS Incorporated would file an appropriate Cal SOS Form SI-100 identifying its new California corporation number, mailing address, new board of directors, new officers, and new agent for service of process, among other information required by the Cal SOS Form SI-100 and would pay the necessary filing fee with the Cal SOS when filing the form.
5. Immediately after the formation of BAADS Incorporated, the BAADS UA board of directors would formally adopt a resolution to engage in a merger transaction in which its assets, liabilities, records, and operations would migrate to the newly-formed BAADS Incorporated entity. As part of that resolution, the BAADS UA board would authorize its officers to pursue whatever appropriate transactions would be necessary to effectuate such a merger transaction.

6. Immediately after Step 5 above, the board of directors of BAADS Incorporated would formally adopt a resolution to approve the Merger transaction with BAADS UA and to approve related merger transaction documents. As part of that resolution, the board of directors of BAADS Incorporated would authorize its officers to pursue whatever appropriate transactions would be necessary to effectuate such a merger transaction.
7. Dually authorized officers of both BAADS Incorporated and BAADS UA would execute appropriate Merger documents.
8. The executed Merger documents would be filed with the appropriate State of California agencies.
9. As part of the merger transaction, BAADS UA would be merged with and into BAADS Incorporated with BAADS Incorporated surviving the merger from an organizational perspective (the “*Merger*”), and all assets and liabilities of BAADS UA would become the assets and liabilities of BAADS Incorporated as the surviving entity in the merger. For tax purposes, however, pursuant to IRS Revenue Procedure 2018-15, BAADS UA would be treated as both the restructuring entity and the surviving entity since BAADS UA is already classified as a “corporation” under Treasury Regulation Section 301.7701-2(b)(1). As such, following the Merger, BAADS Incorporated would use the TIN of BAADS UA in all governmental filings into the future pursuant to IRS Revenue Ruling 73-526. BAADS Incorporated would not need to file a new Form 1023 application with the IRS pursuant to IRS Revenue Procedure 2018-15.
10. Following the Merger but within 6 months from the date that BAADS Incorporated is formed, BAADS Incorporated would file the necessary registration documentation with the Cal AG RCT to identify itself as the successor in interest to BAADS UA and would request that the BAADS UA Cal AG RCT registration number be allowed to be used by BAADS Incorporated into the future on, e.g., future Cal AG Forms RCT RRF-1.
11. Following the Merger, BAADS Incorporated would use its new California Corporation Number in any filings with any State of California agency requesting such number.
12. Following the Merger, BAADS Incorporated would represent itself as a California public benefit corporation with all third parties, and its officers would execute any BAADS Incorporated contracts or other documentation as officers of BAADS Incorporated.
13. Following the Merger, if BAADS Incorporated wished to conduct any business under the name “*Bay Area Association of Disabled Sailors*”, then BAADS Incorporated would prepare and file the appropriate fictitious name statements to be authorized to use the “doing business as” name “Bay Area Association of Disabled Sailors” in all the jurisdictions in which BAADS Incorporated desired to use such a fictitious name to conduct its business.
14. Following the Merger, BAADS Incorporated would prepare appropriate statements describing the Merger and its intended effect to be attached to the following filings made by BAADS Incorporated as the successor in interest to BAADS UA.
  - a. Application for registration with the Cal AG RCT within 6 months of formation of BAADS Incorporated.
  - b. IRS Form 990/990EZ for the period which includes the Merger.
  - c. FTB Form 199 for the period which includes the Merger.
  - d. Cal AG RCT Form RRF-1 for the period which includes the Merger.

- e. Any other correspondence with any other governmental agency with which BAADS Incorporated would do business and with respect to which the organizational status of BAADS Incorporated as the successor to BAADS UA is important.
15. Following the Merger, BAADS Incorporated would contact all of its vendors, contractors, financial institutions and other third parties, as appropriate, to inform them of the change in organizational status of BAADS UA and that it is now operating as BAADS Incorporated.

### **GENERAL NONPROFIT GOVERNANCE AND REGULATORY ISSUES**

Given how complex the issues can be for a nonprofit tax-exempt organization throughout its lifecycle, we thought it would be useful to provide some general information and reference links to IRS Publications which might be of use to BAADS UA, and any successor organization, now and in the future. For a general list of reference and resource materials prepared by the IRS for nonprofit tax-exempt organizations, please visit <https://www.irs.gov/charities-non-profits/charitable-organizations/life-cycle-of-a-public-charity>. This set of materials generally address the following:

*During its existence, a public charity has numerous interactions with the IRS – from filing an application for recognition of tax-exempt status, to filing the required annual information returns, to making changes in its mission and purpose. The IRS provides information, explanations, guides, forms and publications on all of these subjects – they are available through this IRS Web site. The illustration below provides an easy-to-use way of linking to the documents most charities will need as they proceed through the phases of their “life cycle.” You can also view a [graphical depiction](#) of the chart, with links to our website.*

These reference and resource materials address a wide range of topics which BAADS UA, and any successor organization, might encounter on a daily or occasional basis. While a thorough discussion of all of these topics is well beyond the scope of the Agreement, we thought it would be useful to highlight these materials in light of the Firm’s work in Phase I. Also note that these materials only illustrate the types of issues BAADS UA, and any successor organization, might encounter so be advised that other issues might arise for BAADS UA, and any successor organization, which might require the organization to perform additional research without the Firm’s assistance concerning the most appropriate way of addressing and resolving any such issues for the organization.



# Exhibit A

## Historical Perspective on BAADS UA

Personnel from the Bay Area Association of Disabled Sailors, an unincorporated association operating in the State of California (“*BAADS UA*”), provided the following historical perspective on the origins and current activities of BAADS UA. The historical perspective is presented here merely to capture the information so that the information can be preserved.

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The Bay Area Association of Disabled Sailors (BAADS) started as the open water arm of the Lake Merritt Adapted Boating Program in Oakland. Upon learning that many of the Lake Merritt students wanted to sail on the San Francisco Bay, Glo Weibel, the Director of the Adapted Boating Program dedicated herself to organizing a sailing program for sailors with disabilities. Having worked with the Lake Merritt Program since 1981, Glo was the ideal person to pull the group together as she was passionate, generous and determined. In 1987 and 1988, Glo worked with a core group of Lake Merritt sailing students which included Dave Stuart, Howard Robinson, Mary Ann Hiserman, Curtis Austin and Mary Holton. The mission of BAADS was simple — striving to make all aspects of sailing accessible regardless of disability. The goal was to build a sailing program based on the energy and talents of the users themselves, and not be a publicly supported social services program which would be at the mercy of the political and budgetary whims.

BAADS became a reality when, through the generosity of Everett Pearson, a new Freedom Independence boat, the Manatee, was shipped from Rhode Island in 1988. Gary Mull, the late East Bay naval architect, designed the boat specifically to meet the needs of mobility impaired sailors. The original arrangement was for BAADS to pay for the boat as money was raised, but in 1988, fundraising proved all but impossible. Grant Ross, with a young disabled girl named Nyri Scalon, made a film of the Manatee sailing down the Sacramento River. The motive for making the movie was to raise awareness about sailing for persons with disabilities and, to raise money for BAADS. Since it was not a commercial success, Grant continued to take a major role in maintaining the Manatee, investing both his time and money in keeping her and BAADS afloat.

Dave Stuart and Glo Weibel prepared the necessary paperwork for BAADS to become a tax-exempt 501(c)(3) organization. BAADS applied for charitable status and was officially incorporated in 1989. Dave, Glo and their fellow compadres scoured the Bay Area for support and money to fund the boat, birthing and equipment. The first BAADS commodore was Howard Robinson, a local sailor who auctioned his own skiff and other equipment to raise money to pay BAADS expenses. Small grants were received from IBM and the San Francisco Sailing Foundation, but it was clear that BAADS was barely keeping afloat.

The tide turned when Ed Mackin suggested to BAADS new commodore, Dave Stuart, that BAADS move to San Francisco and affiliate with South Beach Yacht Club (SBYC). Ed was a member of SBYC and said that the yacht club had a commitment in its charter to support community-based sailing activities. With the wholehearted support of SBYC’s board and membership, the Redevelopment Agency Commission of San Francisco agreed to provide a free slip for BAADS. SBYC invited BAADS to be part of its membership and to share its clubhouse and facilities— BAADS had finally found a home.

BAADS blossomed in 1990 when skilled, excited and enthusiastic new members came aboard. Margot Lynn began developing a sail training program and Sachi Itagaki started the newsletter, Ahoy. But BAADS really took off when longtime supporter, Dave Izant contributed his beautiful Erickson 27, Endless Time. ET, as she was affectionately known, became the flagship and served the fleet well throughout the 90’s.

Richard Skaff took the helm as Commodore in 1991, and provided the much-needed contacts for contributions and support. Laurence Kornfield joined about the same time and took on the position of club secretary for paperwork and bosun for boat maintenance over a ten-year period. In 1992, Laurence's wife, Lorna, designed a logo and BAADS adopted the jaunty pirate as its mascot. The original disabled sailor with his peg leg, hook for an arm and patch over his eye. During this time, the club was meeting once a month across the street in the community room at the South Beach Marina condominiums. Meetings and events were soon moved to SBYC'S double wide trailer.

In 1993, quadriplegic Kathi Pugh, blind sailor Tom Fowle and their spouses were the first skippers who completed the first certified training classes. The classes were run by Spinnaker Sailing of San Francisco and the American Sailing Association (ASA) provided the certification which established a standard for the skill and safety of BAADS sailors. In the late 1990s, Dan Leininger took charge of qualifying skippers and, along with Alison Brooks, made it possible to send out boats each Sunday so BAADS members could sail. Over the years, BAADS has received several grants including a 2016 grant from US Sailing so that its members could be involved in training new sailors ourselves.

In 1994, BAADS purchased a second Freedom 20, the Raven, which BAADS still has today. In 1996, a Ranger 29, the Voyager, was donated which served as our East Bay link at the Berkeley Marina. For more than 10 years beginning in the mid-90's, Dan Sullivan and Dan Hill played a vital bosun role in keeping the fleet operational. When it became obvious it was too difficult to maintain boats in on two sides of the bay, BAADS consolidated forces at South Beach Marina since public transportation was now readily accessible through Muni. In 2005, the ramps at South Beach Yacht Harbor were made ADA compliant. After more than three years of planning, a small craft dock designed by the SBYC Harbormaster and the San Francisco Redevelopment Commission was completed in the fall 2005. Several years later, cranes were installed to safely lift sailors with mobility impairments into the boats.

In 2006, BAADS acquired 10 Access Dinghies — four 2.3, four 3.03, and two Liberty model boats. In 2007, two more 3.03 Access Dinghies were added and, in 2008, its first Liberty with a servo electric sail trimming and steering system was incorporated into the fleet. Sailors with hand impairments were now able to sail a boat independently using a joystick to control the tiller and sails. Under the watchful eye of our first Dinghy Program Director, Greg Williams, BAADS now needed more on the water and chase boat support. In addition to the weekly group who helped on Saturday, a core cadre of volunteers like John Wallace, Roland Cole and others, had specialized skills to work on the servo controls and keep the fleet maintained. Over the years, significant grants from foundations including America One, St. Francis Yacht Club, and Belvedere Cove have supported the small boat fleet. Beginning in 2008, Jeff Breen took over as director and BAADS now has the largest fleet of Hansa (Access) Dinghies on the West Coast.

Beginning in the early-90s, BAADS members participated in local and national races. BAADS skipper, Herb Meyer, who was active in the local sailing community before he broke his neck during a race, headed up the racing program. For years, BAADS sent teams of racers to Chicago to participate in the North American Challenge Cup for sailors with disabilities. Some of the early skippers racing Freedom 20's included Herb, John Greener, Ann Siek and others. BAADS encouraged its members to participate in Paralympic and international races in Canada, Italy, Switzerland, the Netherlands and Australia. New faces joined Herb and Dylan Young on the international scene including Carwile Leroy and Cristina Rubke, who skippers her servo controls with her chin.

In May 2007, BAADS hosted the first USA National Championship for the Liberty Access Dinghy Regatta with the help of 12 Liberties provided by the Access Dinghy Foundation from Melbourne, Australia. David Staley from Australia provided greatly appreciated technical advice regarding how to assemble and rig the boats as well as operating and repairing the servo electric systems. In August 2013, BAADS also hosted the Hansa Access Class North American Championship with more than 45 participants from five countries.

In 2013, BAADS started a veterans program after hosting a successful grant-funded veterans summer clinic in 2012. In 2014, BAADS added a Racing Program using two Sonars. The BAADS Racing Program regularly competes in YRA races and regularly wins its division in South Beach Yacht Club's Mid-Winter and Friday Night Race Series. Beginning in 2015, BAADS added dedicated Blind Match Racing clinics and programming to the Race Program.

Now with more than 200 members, the BAADS burgee flies on the Bay every weekend and often during the week. BAADS sailors participate in activities that seemed unreachable just a few years ago; hosting international regattas, competing in local, national and international races, joining club cruises and social events, and of course, just sailing on San Francisco Bay with family and friends. We hope you will join us. See ya on the Bay!

#### BAADS Commodores

1988-1989	Howard Robinson
1989-1991	Dave Stuart
1991-1993	Richard Skaff
1993-1996	Kathi Pugh
1996-1998	Tom Fowle
1999-2001	Ann Sieck
2002-2005	Herb Meyer
2006-2011	Ed Gallagher
2012-2015	Cristina Rubke
2015-2017	Dylan Young
2018-Present	Kathi Pugh

# **Exhibit B**

**Articles of Association filed in 1990s**

ARTICLES OF OF ASSOCIATION OF  
THE BAY AREA ASSOCIATION OF DISABLED SAILORS

I

The name of this association is the Bay Area Association of Disabled Sailors.

II

A. This association is a nonprofit public benefit association and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Association Law for charitable purposes.

B. The specific purpose of this association is to provide learning-to-sail opportunities for people with disabilities.

III

The name and address in the State of California of this association's initial agent for services of process is:

David Stuart  
1201 Melville Square #108  
Richmond, CA 94804

IV

A. This Association is organized and operated exclusively for educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code.

B. No substantial part of the activities of this association shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and the association shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of any candidate for public office.

V

The property of this association is irrevocably dedicated to educational purposes and no part of the net income or assets of this association shall ever inure to the benefit of any director, officer or member thereof or to the benefit of any private person. Upon the dissolution or winding up of the association, its assets remaining after payment, or provision for payment, of all debts and liabilities of this association shall be distributed to a nonprofit fund, foundation or association which is organized and operated exclusively for educational purposes and which has established its tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

6/19/90  
Date

David Stuart  
(Signature of Associator)

DAVID STUART  
(Print Name of Associator)

I hereby declare that I am the person who executed the foregoing Articles of Association, which execution is my act and deed.

BYLAWS

OF THE

BAY AREA ASSOCIATION OF DISABLED SAILORS

ARTICLE I - NAME

Section 1. The Association shall be known as THE BAY AREA ASSOCIATION OF DISABLED SAILORS.

Section 2. The local headquarters of the Association shall be P.O. Box 20998, Oakland, CA 94620-0998.

Section 3. The Association shall be a non-profit educational organization, operated exclusively for the purposes of promoting and developing learn-to-sail programs and competitive sailing opportunities for members of the Association and people with disabilities.

Section 4. In the event of final dissolution or liquidation of the Association, and after the discharge of all liabilities, the remaining assets of the Association, including all of specifically designated funds, shall be given to an exempt organization, as defined in the Internal Revenue Code, and whose purposes and objectives are similar to those of the Association, such organization to be designated by a vote of at least two-thirds of all directors, serving as such at the time of dissolution.

ARTICLE II - MEMBERSHIP AND VOTING RIGHTS

Section 1. Subject to the provisions hereof, membership shall be composed of:

a. Voting members who have the following qualifications:

(1) People with disabilities who are interested in sailing and/or sailboat racing; or

(2) Individuals who have a demonstrated involvement and accomplishment in sailing for people with disabilities.

b. Nonvoting members who have the following qualifications:

(1) Individuals who are interested in sailing for persons with disabilities.

(2) Organizations which conduct or are interested in sailing programs for disabled individuals;

(3) Yacht clubs;

- (4) Fleets or stations which belong to class associations or offshore cruising/racing associations;
- (5) Organizations of and for disabled individuals;
- (6) Other sailing organizations;
- (7) Corporations wishing to support the work of the Association.

c. Such other categories as may be established by the Board of Directors.

Section 2. Application for membership shall be in writing addressed to the Association on an appropriate form approved by the Board of Directors.

Section 3. The Board of Directors may reject any application for membership for cause. The applicant will be notified of the rejection and the reason therefore.

Section 4. Voting members shall be entitled to vote on any matter properly submitted to the membership for vote.

Section 5. Any member may be dropped by the Board of Directors for cause or nonpayment of dues, after being given an opportunity to be heard.

Section 6. Dues, if any, for all classes of membership shall be established by a two-thirds majority vote of the entire Board of Directors.

Section 7. All members shall receive such Association's publications as the Board of Directors shall from time to time prescribe.

Section 8. The Board of Directors shall fix the subscription rate of the Association's publications which, in the case of dues paying members, will be a portion of dues paid.

Section 9. A member shall have the privilege of attending or being represented at all annual and special meeting of the Bay Area Association Of Disabled Sailors.

Section 10. Voting members shall be eligible for the Board of Directors and to hold office.

Section 11. All individual members, voting and non-voting, may serve on committees, membership and the Association shall be a prerequisite for doing so.

Section 12. No person or organization interested in sailing for physically disabled individuals or any activity related thereto may be denied membership on the grounds of race, color, religion, age, sex, national origin, or physical or mental handicap, or any reason except misconduct or non-payment of dues.

ARTICLE III - BOARD OF DIRECTORS, ELECTIONS, etc.

Section 1. (Initially) there shall be seven (7) at-large directors of the Association, composed of voting members of the Association.

Section 2. Directors shall hold office for two years, unless sooner removed or otherwise disqualified, or until their successors are elected and installed. Newly elected directors take office on the Board of Directors of the Association immediately upon election.

Section 3. Any director who is absent for four (4) consecutive meetings of the Board without notification shall automatically cease to hold the office of director.

Section 4. Any vacancies on the Board of Directors may be filled for the remainder of the vacated term by a majority vote of the voting members at any regular or special meeting of the Association, or by written ballot submitted to the voting members, or by majority vote of the remaining directors even though a quorum does not remain, and the chosen at-large directors shall hold office until their successors have been duly elected. Any vacancies on the Board of a chapter director shall be filled for the remainder of the vacated term by the chapter under its established procedures.

Section 5. A simple majority, more than half, of the directors shall constitute a quorum capable of transacting any business that may come before a meeting of the Board of Directors.

Section 6. Officers of the Association shall be elected from and by the Board of Directors. Normally, the election shall take place at the first scheduled meeting of the Board held in the calendar year. Newly elected officers shall take office at that meeting.

Section 7. Regular meetings of the Board of Directors shall be held not less than two (2) times during each calendar year, and there shall be such other meetings as may be called, from time to time, by the Chairman of the Board, or officer acting as such, or by one-third of the directors. Notice of such meetings shall be sent to each director at least thirty (30) days prior to the meeting.

Section 8. The business management and affairs of the Association shall be under the direction and control of the Board of Directors, as shall its several officers, and agents; and the Board of Directors shall have the authority to authorize contracts, incur liabilities, expend funds, and to attend to such other matters connected with the conduct of the Association as, from time to time, it may be determined, subject to the right of membership, entitled to vote as provided in Article III, to direct and control the Board of Directors in the exercise of these powers.

Section 9. To meet emergent or routine business of the Association, the Board of Directors may delegate such powers to the Executive Committee as the Board, from time to time, may determine to be necessary or desirable.

Section 10. The Chairman of the Board may appoint standing and special committees as she/he may deem necessary for the best interests of the Association.



ARTICLE IV - OFFICERS

Section 1. Officers of the Association shall be a Chairman of the Board, Vice Chairman, Treasurer, and Secretary who shall all be voting members of the Association and members of the Board of Directors. The Chairman of the Board of Directors shall be an ex-officio member of all committees except the nominating committees.

Section 2. The officers shall be elected according to Article III, Section 6 of these bylaws and shall hold office for two years unless sooner removed or otherwise disqualified.

Section 3. Any officer or director may be removed by a majority of the voting membership as provided in Article II, Section 4, for cause, and after an opportunity to be heard, at any regular meeting of the membership of the Association, or at any special meeting called for that purpose.

Section 4. If there is a vacancy in the office of Chairman of the Board, the Vice Chairman shall become the Chairman of the Board. Any vacancy in the office of Vice Chairman, Secretary, or Treasurer shall be filled by a vote of the Board of Directors.

Section 5. Ninety (90) days prior to each annual membership meeting, nominations for directors of the Association to fill prospective vacancies shall be made by a committee elected by the Board of Directors, composed of three (3) voting members of whom at least two are not directors.

ARTICLE V - DUTIES OF OFFICERS AND COMMITTEES

Section 1. The officers shall perform such duties as are described in these bylaws and such others as may be assigned them by the Board of Directors or the Chairman of the Board.

Section 2. Committees shall make such investigations and reports as the Chairman of the Board may direct.

Section 3. The Chairman of the Board and the Treasurer shall each make a report, either orally or in writing, at each annual membership meeting.

Section 4. The Secretary shall keep minutes of all of the meetings of the Board and the membership.

Section 5. The Chairman of the Board, under the direction of the Board of Directors, shall carry on the actual business of the Association in such manner and along such lines as the Board may determine.

ARTICLE VI - MEETINGS OF THE MEMBERS

Section 1. Unless otherwise ordered by the Board of Directors, there shall be an annual membership meeting at a place and time to be designated by the Board of Directors. The purpose of the annual membership meeting will be to validate the results of the balloting on election of directors, approval of resolutions, approval of bylaw changes, and to transact such other business as may be properly brought before the membership.

Section 2. Special meetings of the Association may be called by the Board of Directors upon the request of twenty (20) per cent of the voting membership.

Section 3. Notice of all membership meetings of the Association shall be mailed to the membership at least thirty (30) days prior to the meeting, and such notice shall specify the purpose of any special meeting. Voting members shall be provided a ballot by which they can vote for directors, vote on proposed bylaw changes, and vote for or against proposed resolutions. Voting members shall also be provided a form for assignment of proxy for the transaction of such urgent business as may properly be brought before the meeting.

Section 4. Voting members exercising their voting privileges at a regular or special meeting of the Association, in person, shall constitute a quorum capable of transacting all business properly brought before the meeting.

Section 5. Except as provided in Article VII, a majority of the voting membership voting, in person at any meeting of the Association membership shall govern in all matters properly brought before the meeting.

Section 6. To be valid ballots must be received at the offices of the Association for verification and recording at least fifteen (15) days prior to the hour of the meeting and the Chairman of the Board shall determine the validity of such ballots, subject to the right of appeal to the Board of Directors.

Section 7. Election of directors, approval of resolutions, and making or confirming bylaw changes shall be decided by the voting membership through the ballot process. Other important matters not deemed by the presiding officer to be truly urgent may be discussed at any meeting but shall be referred to the Board of Directors for consideration and disposition within its authority or for further referral to the membership. Other important matters which the presiding officer finds to be truly urgent and requiring decision at any meeting shall be acted upon by floor vote.

Section 8. Absentees desiring consideration of matters at a membership meeting of the Association shall submit those matters in writing to the Chairman of the Board in time to be received at least ten (10) days prior to the meeting date.

**ARTICLE VII - CHANGES OF BYLAWS**

Section 1. These bylaws may be altered, amended, or changed, or new bylaws may be adopted by a two-thirds majority of those voting members who vote by ballot when such matters are submitted to the voting members for vote, or ad-interim by a two-thirds vote of the Board of Directors, whenever, in their judgement, they may consider such change as beneficial to the operations of the Association, provided that the Board of Directors may not alter, amend, or change these bylaws with regard to matters related to compensation or tenure in office of directors, as such. The Board of Directors may not, except by unanimous vote, take any action under this authority unless the proposal has been taken before the Board in writing for at least thirty (30) days, provided that a proposal placed before the Board of Directors at one of its regular meetings may receive the action of the Board at its next regular meeting. Ad interim changes made in the bylaws by the Board of Directors will be subject to confirmation by a majority of those voting members who vote by ballot prior to the next annual membership meeting.

**ARTICLE VIII - PARLIAMENTARY AUTHORITY**

Section 1. The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the Association in all cases to which they are applicable and in which they are not inconsistent with these bylaws and any special rules of order the Association may adopt.

# **Exhibit C**

**Sample of Cal SOS Form UA-100 for use with corporations only**

## Instructions for Completing the Statement By Unincorporated Association (Form UA-100)

**Where to File:** For easier completion, this form is available on the California Secretary of State's website at [www.sos.ca.gov/business/be/forms.htm](http://www.sos.ca.gov/business/be/forms.htm) and can be completed online and printed to mail. The completed form can be mailed to Secretary of State, Document Filing Support Unit, P.O. Box 944225, Sacramento, CA 94244-2250 or delivered in person (drop off) to the Sacramento office. If you are not completing this form online, please type or legibly print in black or blue ink. This form is filed only in the Sacramento office.

**Legal Authority:** Statutory filing requirements are found in California Corporations Code section [18200](#). All statutory references are to the California Corporations Code, unless otherwise stated.

- After the Statement by Unincorporated Association has been filed, the association may at any time file a new statement superseding the last previously filed statement. If the new statement does not designate an agent for service of process, the filing of the new statement operates to revoke a process agent previously designated.
- The Statement by Unincorporated Association expires 5 years from December 31 following the date of filing with the Secretary of State, unless previously superseded by the filing of a new statement.

**Fees:** The fee for filing the Statement by Unincorporated Association is \$25.00. A non-refundable \$15.00 special handling fee is applicable for processing documents delivered in person (drop off) at the Sacramento office. The preclearance and/or expedited filing of a document *within a guaranteed time frame* can be requested for an additional non-refundable fee in lieu of the special handling fee. For detailed information about preclearance and expedited filing services, go to [www.sos.ca.gov/business/be/service-options.htm](http://www.sos.ca.gov/business/be/service-options.htm). The special handling fee or preclearance and expedited filing services are not applicable to documents submitted by mail. Check(s) should be made payable to the Secretary of State.

**Copies:** Upon filing, we will return one (1) uncertified copy of your filed document for free. To get additional copies, include a separate request and payment for copy fees when the document is submitted. Copy fees are \$1.00 for the first page and \$.50 for each additional page. For certified copies, there is an additional \$5.00 certification fee, per copy.

### Complete the Statement by Unincorporated Association (Form UA-100) as follows:

- Item 1.** Enter the name of the unincorporated association.
- Item 2.** If the unincorporated association has a principal office address in California, enter the complete address, including zip code, and proceed to Item 4 (leave Item 3 blank.) If the unincorporated association has no principal office address in California, leave Item 2 blank and proceed to Item 3.
- Item 3a.** If the unincorporated association has no principal office in California, enter the complete address of the unincorporated association to which the Secretary of State shall send any notices required under Sections [18210](#) and [18215](#).
- Item 3b.** If different from Item 3a, enter the mailing address of the unincorporated association.
- Item 4.** An agent for service of process **may** be designated by the unincorporated association if the association has a principal office address in California, and **must** be designated by the unincorporated association if the association has no principal office address in California. The person named as agent must be a resident of California or a corporation that has filed a certificate pursuant to Section [1505](#). If an individual is designated as agent, both Items 4 and 5 must be completed. If a corporation is designated, complete Item 4 and proceed to Item 6 (do not complete Item 5). An Agent for Service of Process is an individual or corporation designated by an unincorporated association to accept service of process if the unincorporated association is sued.
- Please note:** An unincorporated association cannot name itself as agent for service of process. Further, no domestic or foreign corporation may file pursuant to Section 1505 unless the corporation is currently authorized to engage in business in California and is in good standing on the records of the Secretary of State.
- Item 5.** If an individual is designated as the agent for service of process, enter the agent's business or residential address in California. Please do not enter "in care of" (c/o) or abbreviate the name of the city. Please do not enter an address if a corporation is designated as the agent for service of process.
- Item 6.** If the unincorporated association filed a previous statement, enter the file number issued by the Secretary of State. If the last statement filed by the association has expired, or no prior statements have been filed, leave Item 6 blank and proceed to Item 8.
- Item 7.** If the unincorporated association filed a previous statement under a name other than the name entered in Item 1, enter the former name of the association exactly as it is of record with the Secretary of State. If the name has not changed, or the last statement filed by the association has expired, or no prior statements have been filed, leave Item 7 blank and proceed to Item 8.
- Item 8.** Type or print the name and title of the person completing this form.



# Mail Submission Cover Sheet

### Instructions:

- Complete and include this form with your submission. **This information only will be used to communicate with you in writing about the submission.** This form will be treated as correspondence and will not be made part of the filed document.
- Make all **checks or money orders** payable to the Secretary of State.
- Do not include a \$15 counter fee when submitting documents by mail.
- Standard processing time for **submissions** to this office is approximately 5 business days from receipt. All **submissions** are reviewed in the date order of receipt. For updated processing time information, visit [www.sos.ca.gov/business/be/processing-times](http://www.sos.ca.gov/business/be/processing-times).

### Optional Copy and Certification Fees:

- If applicable, include optional copy and certification fees with your submission.
- For applicable copy and certification fee information, refer to the instructions of the specific form you are submitting.

### Contact Person: (Please type or print legibly)

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

Phone (optional): \_\_\_\_\_

### Entity Information: (Please type or print legibly)

Name: \_\_\_\_\_

Entity Number (if applicable): \_\_\_\_\_

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Return Address:** For written communication from the Secretary of State related to this document, or if purchasing a copy of the filed document enter the name of a person or company and the mailing address.

Name: [ \_\_\_\_\_ ]

Company:

Address:

City/State/Zip: [ \_\_\_\_\_ ]

Secretary of State Use Only	
T/TR:	
AMT REC'D:	\$



# State of California Secretary of State

## Statement By Unincorporated Association (Corporations Code section 18200)

A \$25.00 filing fee must accompany this form.

**IMPORTANT – Read instructions before completing this form.**

This Space For Filing Use Only

### Entity name

1. Name of Unincorporated Association

**Principal Office Address in California, if any** (If any, in Item 2 list the street address of the association's principal office address in California and proceed to Item 4 (leave Item 3 blank.) If the association has no principal office address in CA, leave Item 2 blank and proceed to Item 3a.)

2. Street Address of Principal Office in CA	City	State	Zip Code
		<b>CA</b>	

**Street & Mailing Addresses** (If Item 2 was not completed, in Item 3a list the association's complete street address to which the Secretary of State shall send any required notices and, if different from Item 3a, in Item 3b list the association's mailing address.)

3a. Street Address of Unincorporated Association	City	State	Zip Code
--	------	-------	----------

3b. Mailing Address of Unincorporated Association, if different from Item 3a	City	State	Zip Code
--	------	-------	----------

**Agent For Service of Process** (If Item 2 was completed, the association **may** designate an agent for service of process. If, however, Item 3 was completed, the association **must** designate an agent for service of process. If the agent is an individual, the agent must reside in California and both Items 4 and 5 must be completed. If the agent is a corporation, the agent must have a certificate pursuant to California Corporations Code section 1505 on file and Item 4 must be completed (leave Item 5 blank).)

4. Name of Agent for Service of Process

5. <b>If an individual</b> , Street Address of Agent for Service of Process in CA	City	State	Zip Code
		<b>CA</b>	

**Amended Filing** (If the unincorporated association filed a previous statement with the Secretary of State, enter the Secretary of State file number in Item 6, and if the name under which the unincorporated association previously filed differs from the name entered in Item 1, enter the former name of the unincorporated association in Item 7. If the last statement filed by the association has expired, or if no prior statements have been filed, leave Items 6 and 7 blank and proceed to Item 8.)

6. Secretary of State File Number

7. Former Name of Unincorporated Association (if different from the name in Item 1 above)

### Execution

8. The information contained herein is true and correct.

\_\_\_\_\_  
Signature of Person Completing This Form

\_\_\_\_\_  
Type or Print Name and Title of Person Completing This Form

# **Exhibit D**

**Print out of Cal SOS Information on BAADS Inc.**





# State of California Secretary of State

**N**

## Statement of Information

(Domestic Nonprofit, Credit Union and General Cooperative Corporations)

Filing Fee: \$20.00. If this is an amendment, see instructions.  
**IMPORTANT – READ INSTRUCTIONS BEFORE COMPLETING THIS FORM**

**FK94172**

**FILED**

In the office of the Secretary of State  
of the State of California

**APR-07 2017**

**1. CORPORATE NAME**

BAY AREA ASSOCIATION OF DISABLED SAILORS, INC.

**2. CALIFORNIA CORPORATE NUMBER**

C3809294

This Space for Filing Use Only

**Complete Principal Office Address** (Do not abbreviate the name of the city. Item 3 cannot be a P.O. Box.)

3. STREET ADDRESS OF PRINCIPAL OFFICE IN CALIFORNIA, IF ANY	CITY	STATE	ZIP CODE
PIER 40 THE EMBARCADERO, SAN FRANCISCO, CA 94107			

4. MAILING ADDRESS OF THE CORPORATION	CITY	STATE	ZIP CODE

**Names and Complete Addresses of the Following Officers** (The corporation must list these three officers. A comparable title for the specific officer may be added; however, the preprinted titles on this form must not be altered.)

5. CHIEF EXECUTIVE OFFICER/	ADDRESS	CITY	STATE	ZIP CODE
DYLAN YOUNG	PIER 40 THE EMBARCADERO, SAN FRANCISCO, CA 94107			

6. SECRETARY	ADDRESS	CITY	STATE	ZIP CODE
CHRIS RUBKE	PIER 40 THE EMBARCADERO, SAN FRANCISCO, CA 94107			

7. CHIEF FINANCIAL OFFICER/	ADDRESS	CITY	STATE	ZIP CODE
ALEX OKRUT	PIER 40 THE EMBARCADERO, SAN FRANCISCO, CA 94107			

**Agent for Service of Process** If the agent is an individual, the agent must reside in California and Item 9 must be completed with a California street address, a P.O. Box address is not acceptable. If the agent is another corporation, the agent must have on file with the California Secretary of State a certificate pursuant to California Corporations Code section 1505 and Item 9 must be left blank.

8. NAME OF AGENT FOR SERVICE OF PROCESS [Note: The person designated as the corporation's agent MUST have agreed to act in that capacity prior to the designation.]  
DYLAN YOUNG

9. STREET ADDRESS OF AGENT FOR SERVICE OF PROCESS IN CALIFORNIA, IF AN INDIVIDUAL	CITY	STATE	ZIP CODE
PIER 40 THE EMBARCADERO, SAN FRANCISCO, CA 94107			

**Common Interest Developments**

10.  Check here if the corporation is an association formed to manage a common interest development under the Davis-Stirling Common Interest Development Act, (California Civil Code section 4000, et seq.) or under the Commercial and Industrial Common Interest Development Act, (California Civil Code section 6500, et seq.). The corporation must file a Statement by Common Interest Development Association (Form SI-CID) as required by California Civil Code sections 5405(a) and 6760(a). Please see instructions on the reverse side of this form.

11. THE INFORMATION CONTAINED HEREIN IS TRUE AND CORRECT.

04/07/2017	CHRISTOPHER DOYLE NAUGHTON	DIRECTOR	
DATE	TYPE/PRINT NAME OF PERSON COMPLETING FORM	TITLE	SIGNATURE

# **Exhibit E**

**Print out of Cal AG RCT Information identifying BAADS UA as being in Good Stating with the Cal aG  
RCT**

[HOME](#)   [ABOUT](#)   [MEDIA](#)   [CAREERS](#)   [REGULATIONS](#)   [RESOURCES](#)   [PROGRAMS](#)   [CONTACT](#)

#### Registrant Details

Entity Type is either the Corporate Class as registered with the Secretary of State or based on founding and registration documents submitted to the Registry.

**Organization Name:** BAY AREA ASSOCIATION OF DISABLED SAILORS    **IRS FEIN:** 943067409  
**Entity Type:** agency1prof0ownershipType-255    **SOS/FTB Corporate/Organization Number:** 9764314

<b>RCT Registration Number:</b>	080490	<b>Registration Type:</b>	Charity Registration
<b>Program Type:</b>	Charity	<b>Renewal Due Date:</b>	5/15/2020
<b>Issue Date:</b>	12/31/2004	<b>Date This Status:</b>	6/28/2019
<b>Registry Status:</b>	Current		
<b>Date of Last Renewal:</b>	8/23/2016		

#### Mailing Address

**Street:** PIER 40, THE EMBARCADERO BOX 16  
**Street Line 2:**  
**City, State Zip:** SAN FRANCISCO CA 94104

#### Annual Renewal Data Reported to the Registry

<b>Status of Filing:</b>	Accepted
<b>Accounting Period Begin Date:</b>	1/1/2002
<b>Accounting Period End Date:</b>	12/31/2002
<b>Total Assets:</b>	\$29,011.00
<b>Total Revenue:</b>	\$21,415.00
<b>Filing Received Date:</b>	9/3/2008
<b>Complete IRS Form 990 Received (Y/N):</b>	N
<b>Online Submission (Y/N):</b>	N

<b>Status of Filing:</b>	Accepted
<b>Accounting Period Begin Date:</b>	1/1/2003
<b>Accounting Period End Date:</b>	12/31/2003
<b>Total Assets:</b>	\$68,393.00
<b>Total Revenue:</b>	\$16,550.00
<b>Filing Received Date:</b>	9/3/2008
<b>Complete IRS Form 990 Received (Y/N):</b>	N
<b>Online Submission (Y/N):</b>	N

<b>Status of Filing:</b>	Accepted
<b>Accounting Period Begin Date:</b>	1/1/2004
<b>Accounting Period End Date:</b>	12/31/2004
<b>Total Assets:</b>	\$63,794.00
<b>Total Revenue:</b>	\$20,917.00
<b>Filing Received Date:</b>	4/28/2005
<b>Complete IRS Form 990 Received (Y/N):</b>	Y
<b>Online Submission (Y/N):</b>	N

<b>Status of Filing:</b>	Accepted
<b>Accounting Period Begin Date:</b>	1/1/2005
<b>Accounting Period End Date:</b>	12/31/2005
<b>Total Assets:</b>	\$105,327.00
<b>Total Revenue:</b>	\$46,612.00
<b>Filing Received Date:</b>	9/3/2008
<b>Complete IRS Form 990 Received (Y/N):</b>	Y
<b>Online Submission (Y/N):</b>	N

<b>Status of Filing:</b>	Accepted
<b>Accounting Period Begin Date:</b>	1/1/2006

<b>Accounting Period End Date:</b>	12/31/2006
<b>Total Assets:</b>	\$141,645.00
<b>Total Revenue:</b>	\$66,897.00
<b>Filing Received Date:</b>	11/19/2007
<b>Complete IRS Form 990 Received (Y/N):</b>	Y
<b>Online Submission (Y/N):</b>	N
<b>Status of Filing:</b>	Accepted
<b>Accounting Period Begin Date:</b>	1/1/2007
<b>Accounting Period End Date:</b>	12/31/2007
<b>Total Assets:</b>	\$158,977.00
<b>Total Revenue:</b>	\$31,510.00
<b>Filing Received Date:</b>	5/12/2008
<b>Complete IRS Form 990 Received (Y/N):</b>	Y
<b>Online Submission (Y/N):</b>	N
<b>Status of Filing:</b>	Accepted
<b>Accounting Period Begin Date:</b>	1/1/2008
<b>Accounting Period End Date:</b>	12/31/2008
<b>Total Assets:</b>	\$190,726.00
<b>Total Revenue:</b>	\$78,046.00
<b>Filing Received Date:</b>	8/11/2009
<b>Complete IRS Form 990 Received (Y/N):</b>	Y
<b>Online Submission (Y/N):</b>	N
<b>Status of Filing:</b>	Accepted
<b>Accounting Period Begin Date:</b>	1/1/2009
<b>Accounting Period End Date:</b>	12/31/2009
<b>Total Assets:</b>	\$219,295.00
<b>Total Revenue:</b>	\$64,679.00
<b>Filing Received Date:</b>	2/13/2014
<b>Complete IRS Form 990 Received (Y/N):</b>	Y
<b>Online Submission (Y/N):</b>	N
<b>Status of Filing:</b>	Accepted
<b>Accounting Period Begin Date:</b>	1/1/2010
<b>Accounting Period End Date:</b>	12/31/2010
<b>Total Assets:</b>	\$207,483.00
<b>Total Revenue:</b>	\$34,919.00
<b>Filing Received Date:</b>	2/13/2014
<b>Complete IRS Form 990 Received (Y/N):</b>	Y
<b>Online Submission (Y/N):</b>	N
<b>Status of Filing:</b>	Accepted
<b>Accounting Period Begin Date:</b>	1/1/2011
<b>Accounting Period End Date:</b>	12/31/2011
<b>Total Assets:</b>	\$197,497.00
<b>Total Revenue:</b>	\$39,167.00
<b>Filing Received Date:</b>	2/13/2014
<b>Complete IRS Form 990 Received (Y/N):</b>	N
<b>Online Submission (Y/N):</b>	N
<b>Status of Filing:</b>	Accepted
<b>Accounting Period Begin Date:</b>	1/1/2012
<b>Accounting Period End Date:</b>	12/31/2012
<b>Total Assets:</b>	\$229,662.00
<b>Total Revenue:</b>	\$86,618.00
<b>Filing Received Date:</b>	2/13/2014
<b>Complete IRS Form 990 Received (Y/N):</b>	Y
<b>Online Submission (Y/N):</b>	N
<b>Status of Filing:</b>	Accepted
<b>Accounting Period Begin Date:</b>	1/1/2013
<b>Accounting Period End Date:</b>	12/31/2013
<b>Total Assets:</b>	\$256,635.00

<b>Total Revenue:</b>	\$92,496.00
<b>Filing Received Date:</b>	2/13/2014
<b>Complete IRS Form 990 Received (Y/N):</b>	Y
<b>Online Submission (Y/N):</b>	N
<b>Status of Filing:</b>	Accepted
<b>Accounting Period Begin Date:</b>	1/1/2014
<b>Accounting Period End Date:</b>	12/31/2014
<b>Total Assets:</b>	\$296,822.00
<b>Total Revenue:</b>	\$71,778.00
<b>Filing Received Date:</b>	5/18/2015
<b>Complete IRS Form 990 Received (Y/N):</b>	Y
<b>Online Submission (Y/N):</b>	N
<b>Status of Filing:</b>	Accepted
<b>Accounting Period Begin Date:</b>	1/1/2015
<b>Accounting Period End Date:</b>	12/31/2015
<b>Total Assets:</b>	\$304,881.00
<b>Total Revenue:</b>	\$84,437.00
<b>Filing Received Date:</b>	7/18/2016
<b>Complete IRS Form 990 Received (Y/N):</b>	Y
<b>Online Submission (Y/N):</b>	N
<b>Status of Filing:</b>	Accepted
<b>Accounting Period Begin Date:</b>	1/1/2016
<b>Accounting Period End Date:</b>	12/31/2016
<b>Total Assets:</b>	\$279,873.00
<b>Total Revenue:</b>	\$107,806.00
<b>Filing Received Date:</b>	6/24/2019
<b>Complete IRS Form 990 Received (Y/N):</b>	Y
<b>Online Submission (Y/N):</b>	
<b>Status of Filing:</b>	Accepted
<b>Accounting Period Begin Date:</b>	1/1/2017
<b>Accounting Period End Date:</b>	12/31/2017
<b>Total Assets:</b>	\$255,465.00
<b>Total Revenue:</b>	\$45,062.00
<b>Filing Received Date:</b>	6/24/2019
<b>Complete IRS Form 990 Received (Y/N):</b>	N
<b>Online Submission (Y/N):</b>	
<b>Status of Filing:</b>	Accepted
<b>Accounting Period Begin Date:</b>	1/1/2018
<b>Accounting Period End Date:</b>	12/31/2018
<b>Total Assets:</b>	\$345,355.00
<b>Total Revenue:</b>	\$89,230.00
<b>Filing Received Date:</b>	6/24/2019
<b>Complete IRS Form 990 Received (Y/N):</b>	Y
<b>Online Submission (Y/N):</b>	

#### Related Documents

<a href="#">Founding Documents</a>	Founding Documents
<a href="#">RRF-1 2008</a>	2008 RRF-1
<a href="#">RRF-1 2007</a>	2007 RRF-1
<a href="#">IRS Form 990 2007</a>	2007 IRS Form 990
<a href="#">RRF-1 2006</a>	2006 RRF-1
<a href="#">IRS Form 990 2006</a>	2006 IRS Form 990
<a href="#">RRF-1 2005</a>	2005 RRF-1
<a href="#">RRF-1 2004</a>	2004 RRF-1
<a href="#">IRS Form 990 2004</a>	2004 IRS Form 990
<a href="#">RRF-1 2003</a>	2003 RRF-1

<a href="#">RRF-1 2002</a>	2002 RRF-1
<a href="#">Resend - Address Unknown Schedule B Request letter</a>	Resend - Address Unknown Schedule B Request letter
<a href="#">Resend - Address Unknown Incomplete RRF-1 letter</a>	Resend - Address Unknown Incomplete RRF-1 letter
<a href="#">Copy of the returned envelope</a>	Copy of the returned envelope
<a href="#">IRS Form 990-N 2011</a>	2011 IRS Form 990-N
<a href="#">IRS Form 990-EZ 2013</a>	2013 IRS Form 990-EZ
<a href="#">IRS Form 990-EZ 2012</a>	2012 IRS Form 990-EZ
<a href="#">RRF-1 2013</a>	2013 RRF-1
<a href="#">IRS Form 990-EZ 2008</a>	2008 IRS Form 990-EZ
<a href="#">RRF-1 2011</a>	2011 RRF-1
<a href="#">RRF-1 2012</a>	2012 RRF-1
<a href="#">Miscellaneous Documents</a>	Miscellaneous Documents
<a href="#">Miscellaneous Documents</a>	Miscellaneous Documents
<a href="#">RRF-1 2010</a>	2010 RRF-1
<a href="#">Miscellaneous Documents</a>	Miscellaneous Documents
<a href="#">IRS Form 990-EZ 2010</a>	2010 IRS Form 990-EZ
<a href="#">RRF-1 2009</a>	2009 RRF-1
<a href="#">IRS Form 990-EZ 2009</a>	2009 IRS Form 990-EZ
<a href="#">Miscellaneous Documents</a>	Miscellaneous Documents
<a href="#">2015 RRF-1</a>	2015 RRF-1
<a href="#">2015 IRS Form 990-EZ</a>	2015 IRS Form 990-EZ
<a href="#">RRF-1 2014</a>	2014 RRF-1
<a href="#">IRS Form 990-EZ 2014</a>	2014 IRS Form 990-EZ
<a href="#">Miscellaneous Documents</a>	Miscellaneous Documents
<b>Prerequisite Information</b>	
No Prerequisite Information	

# **Exhibit F**

**Copy of IRS determination letters to BAADS UA on tax-exempt status for federal tax purposes.**

INTERNAL REVENUE SERVICE  
DISTRICT DIRECTOR  
2 CUPANIA CIRCLE MDNTEREY PARK CA

DEPARTMENT OF THE TREASURY

91755-7406

Date Jun 16 1995

Employer Identification Number:  
94-3067409

Case Number:  
955129028

BAY AREA ASSOCIATION OF DISABLED  
SAILORS

Contact Person:  
TYRONE THOMAS

C/O DAVID STUART

Contact Telephone Number:  
(213) 894-2289

P.C. BOX 193730

SAN FRANCISCO, CA 94119-3730

Our Letter Dated:  
October 03, 1990

Addendum Applies:  
Yes

Dear Applicant:

This modifies our letter of the above date in which we stated that you would be treated as an organization that is not a private foundation until the expiration of your advance ruling period.

Your exempt status under section 501(a) of the Internal Revenue Code as an organization described in section 501(c) (3) is still in effect. Based on the information you submitted, we have determined that you are not a private foundation within the meaning of section 509(a) of the Code because you are an organization of the type described in section 509 (a) (1) and 170(b) (1) (A) (vi).

Grantors and contributors may rely on this determination unless the Internal Revenue Service publishes notice to the contrary. However, if you lose your section 509 (a) (1) status, a grantor or contributor may not rely on this determination if he or she was in part responsible for, or was aware of, the act or failure to act, or the substantial or material change on the part of the organization that resulted in your loss of such status, or if he or she acquired knowledge that the Internal Revenue Service had given notice that you would no longer be classified as a section 509(a) (1) organization.

As of January 1, 1984, you are liable for taxes under the Federal Insurance Contributions Act (social security taxes) on remuneration of \$100 or more you pay to each of your employees. You are required to file Form 990 only if your gross receipts each year are normally more than \$25,000. For guidance in determining whether your gross receipts are "normally" more than \$25,000, see the instructions for Form 990. If a return is required, it must be filed by the 15th day of the fifth month after the end of your annual accounting period. A penalty of \$10 a day is charged when a return is filed late, unless there is reasonable cause for the delay. However, the maximum penalty charged cannot exceed \$5,000 or 5 percent of your gross receipts for the year, whichever is less. This penalty may also be charged if a return is not complete, so please be sure your return is complete before you file it. If we have indicated in the heading of this letter that an addendum applies, the addendum enclosed is an integral part of this letter.



BAY AREA ASSOCIATION OF DISABLED

Because this letter could help resolve any questions about your private foundation status, please keep it in your permanent records.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Richard R. Orosco District  
Director

Enclosure:  
Addendum

Letter  
1050  
(DO/CG)

-3-

BAY AREA ASSOCIATION OF DISABLED

Addendum:

You have been reclassified under section 501(c) (3) of the Internal Revenue Code as the type of organization described in sections 509 (a) (1) and 170(b) (1) (A) (vi) of the Internal Revenue Code.

# **Exhibit G**

**Copy of FTB determination letter to BAADS UA on tax-exempt status for California tax purposes.**

Letter  
1050  
(DO/CO)

STATE OF CALIFORNIA  
FRANCHISE TAX BOARD  
P.O. 80X 51  
SAOPAMEt~TO, CA 95812~0651

September 6, 1990

In reply refer to  
344:G JY

BAY AREA ASSOC. OF DISABLED SAILORS  
P.O. BOX 20998  
OAKLAND CA 94620  
Purpose . EDUCATIONAL  
Code Section . 23701d  
Form of Organization . Association  
Accounting Period Ending Decembr 31  
Organization Number 9764314

You are exempt from state franchise or income tax under the section of the Revenue and Taxation Code indicated above.

This decision is based on information you submitted and assumes that your present operations continue unchanged or conform to those proposed in your application. Any change in operation, character, or purpose of the organization must be reported immediately to this office so that we may

determine the effect on your exempt status. Any change of name or address must also be reported.

In the event of a change in relevant statutory, administrative, judicial case law, a change in federal interpretation of federal law in cases where our opinion is based upon such an interpretation, or a change in the material facts or circumstances relating to your application upon which this opinion is based, this opinion may no longer be applicable. It is your responsibility to be aware of these changes should they occur. This paragraph constitutes written advice, other than a chief counsel ruling, within the meaning of Revenue and Taxation Code Section 21012(a)(2)

You may be required to file Form 199 (Exempt Organization Annual Information Return) on or before the 15th day of the 5th month (4 1/2 months) after the close of your accounting period. Please see annual instructions with forms for requirements.

You are not required to file state franchise or income tax returns unless you have income subject to the unrelated business income tax

September 6, 1990  
BAY AREA ASSOC. OF DISABLED SAILORS  
Corporate Number 9764314  
Page 2

under Section 23731 of the Code. In this event, you are required to file Form 109 (Exempt Organization Business Income Tax Return) by the 15th day of the 5th month (4 1/2 months) after the close of your annual accounting period.

Please note that an exemption from federal income or other taxes and other state taxes requires separate applications.

A copy of this letter has been sent to the Registry of Charitable Trusts.

J YORK  
EXEMPT ORGANIZATION  
GENERAL AUDIT  
Telephone (916) 369-4171

EO

cc: DAVID STUART

# **Exhibit H**

**Copy of BAADS Inc. filed articles of Incorporation July 2015.**

To form a nonprofit public benefit corporation in California, you can fill out this form or prepare your own document, and submit for filing along with:

- A \$30 filing fee.
- A separate, non-refundable \$15 service fee also must be included, if you drop off the completed form or document.

Important! California nonprofit corporations are not automatically exempt from paying California franchise tax or income tax each year. A separate application is required in order to obtain tax exempt status.

Note: Before submitting this form, you should consult with a private attorney for advice about your specific business needs.

FILED Secretary of State State of California JUL 20 2015

This Space For Office Use Only

For questions about this form, go to www.sos.ca.gov/business/be/filing-tips.htm

Corporate Name (List the proposed corporate name. Go to www.sos.ca.gov/business/be/name-availability.htm for general corporate name requirements and restrictions.)

The name of the corporation is Bay Area Association of Disabled Sailors, Inc.

Corporate Purpose (Item 2a: Check one or both boxes. Item 2b: The specific purpose of the corporation must be listed if you are organizing for "public" purposes, or if you intend to apply for tax-exempt status in California.)

- a. This corporation is a nonprofit Public Benefit Corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for: public purposes. charitable purposes.
b. The specific purpose of this corporation is to see attached

Service of Process (List a California resident or an active 1505 corporation in California that agrees to be your initial agent to accept service of process in case your corporation is sued. You may list any adult who lives in California. You may not list your own corporation as the agent. Do not list an address if the agent is a 1505 corporation as the address for service of process is already on file.)

a. Cristina Rubke
Agent's Name
b. 260 King Street #649 San Francisco CA 94107
Agent's Street Address (if agent is not a corporation) - Do not list a P.O. Box City (no abbreviations) State Zip

Corporate Addresses

a. Pier 40, The Embarcadero San Francisco CA 94107
Initial Street Address of Corporation - Do not list a P.O. Box City (no abbreviations) State Zip
b. Initial Mailing Address of Corporation, if different from 4a City (no abbreviations) State Zip

Additional Statements (The following statements are required to obtain tax exemption from the Internal Revenue Service or the California Franchise Tax Board under Internal Revenue Code section 501(c)(3). Note: Corporations seeking other types of tax exemptions should not use this form.)

- a. This corporation is organized and operated exclusively for the purposes set forth in Article 2a hereof within the meaning of Internal Revenue Code section 501(c)(3).
b. No substantial part of the activities of this corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and this corporation shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of any candidate for public office.
c. The property of this corporation is irrevocably dedicated to the purposes in Article 2a hereof and no part of the net income or assets of this corporation shall ever inure to the benefit of any director, officer or member thereof or to the benefit of any private person.
d. Upon the dissolution or winding up of this corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of this corporation shall be distributed to a nonprofit fund, foundation or corporation which is organized and operated exclusively for charitable, educational and/or religious purposes and which has established its tax-exempt status under Internal Revenue Code section 501(c)(3).

This form must be signed by each incorporator. If you need more space, attach extra pages that are 1-sided and on standard letter-sized paper (8 1/2" x 11"). All attachments are made part of these articles of incorporation.

Eli C. Frank
Incorporator - Sign here

Eli C. Frank
Print your name here

Make check/money order payable to: Secretary of State
Upon filing, we will return one (1) uncertified copy of your filed document for free, and will certify the copy upon request and payment of a \$5 certification fee.

By Mail
Secretary of State
Business Entities, P.O. Box 944260
Sacramento, CA 94244-2600

Drop-Off
Secretary of State
1500 11th Street, 3rd Floor
Sacramento, CA 95814



The specific purpose of this corporation is to promote and develop learn-to-sail programs and to engage in sailboat racing and fun sailing for Members and non-members of the corporation with disabilities, some of whom are Veterans.

# **Exhibit I**

**Copy of new engagement agreement between BAADS UA and the firm to move forward with Phase II and Phase III of the pro bono project.**

KENNETH B. CLARK

EMAIL KCLARK@FENWICK.COM  
Direct Dial +1 (650) 335-7215

**PRIVILEGED AND CONFIDENTIAL**

August 8, 2019

**VIA E-MAIL**

Kathi Pugh, Commodore  
Bay Area Association of Disabled Sailors  
A California unincorporated Association  
Pier 40, The Embarcadero  
San Francisco, CA 94107  
Commodore@baads.org

Re: Engagement Agreement for Phase II and Phase III of Pro Bono Project

Dear Kathi:

Thank you for choosing Fenwick & West LLP to represent the Bay Area Association of Disabled Sailors, an unincorporated association doing business in the State of California (“**BAADS UA**” or “**you**”). This new engagement agreement governs our representation of BAADS at this time. If a decision is made to expand the scope of our engagement, beyond the limits of this new engagement letter, additional engagement letters will be sent to you to confirm the scope and limits of our engagement.

**Scope of Our Current Representation**

Given the complexity of the matters you have presented to us, and as a result of our efforts pursuant to that certain engagement agreement between and among BAADS UA and us dated April 18, 2019, we have made a decision to specifically limit the scope of our continuing engagement with BAADS UA at this time. Under this engagement agreement, the Firm will represent BAADS UA in the following matters: (1) investigate possible strategies and transactions to migrate the BAADS UA operations, assets and liabilities into a corporation structure; (2) investigate the availability of an appropriate corporate name for a successor in interest California public benefit corporation to continue the operations of BAADS UA and reserving such name; (3) assist BAADS UA in drafting and filing new articles of incorporation to form a new California Nonprofit Public Benefit Corporation (“**BAADS Incorporated**”) to continue as a successor in interest to BAADS UA; (4) draft appropriate bylaws for BAADS Incorporated to adopt as the successor in interest to BAADS UA; (5) draft appropriate board resolutions for both BAADS UA and BAADS Incorporated to approve a merger transaction in which the assets, liabilities and operations of BAADS UA would be transferred to and assumed by BAADS Incorporated, with BAADS Incorporated to survive from an organizational perspective as the successor in interest to BAADS UA (the “**Merger**”); (6) draft the appropriate transaction documentation to effectuate the

**PRIVILEGED AND CONFIDENTIAL**

**AUGUST 8, 2019**

Kathi Pugh, Commodore  
Bay Area Association of Disabled Sailors  
Page 2

Merger; (7) file the appropriate Merger transaction documentation with California state agencies to effectuate the Merger and inform such state agencies that BAADS Incorporated will be the successor in interest to BAADS UA; (8) assist BAADS Incorporated in preparing and filing an appropriate fictitious name statement in the county of San Francisco to allow it to do business as “*Bay Area Association of Disabled Sailors*” in that jurisdiction; and (9) assist BAADS UA to draft appropriate statements to be attached to future filings BAADS Incorporated will make with federal and state agencies to describe the Merger and identify BAADS as the successor in interest to BAADS UA (the foregoing clauses (1) – (9), the “*Representation*”).

We do not represent BAADS with respect to any other matter, and we will not do so unless we expressly agree to do so in writing. That is, should our investigations during our Representation identify additional legal work which would need to be done to address other legal issues for BAADS UA, a new engagement would need to be established before we would be in a position to do any such other legal work.

Please note that we represent only BAADS UA, not any officers, directors, managers, stockholders, members, founders, agents, employees or contractors of BAADS UA, even though we may need to interact with those persons in the normal course of representing BAADS UA. In addition, our representation of BAADS UA does not include representation of its parents, subsidiaries, joint ventures or affiliates.

BAADS UA agrees to keep us informed of its current contact information at all times during the course of the Representation because this is crucial for us to effectively represent BAADS UA. BAADS UA also agrees to notify us if it receives any document or information related to the Representation and that appropriately designated individuals from BAADS UA would make personal appearances upon reasonable notice from us in order to assist us with handling this matter for BAADS UA. We will take reasonable steps to keep BAADS UA informed of the progress on its matter, and to respond to BAADS UA’s inquiries regarding the same. Nothing in this engagement agreement and nothing in our statements to BAADS UA should be construed as a promise or guarantee about the outcome of the Representation.

We will not represent BAADS UA with respect to (i) obtaining any insurance coverage, (ii) the scope or availability of existing insurance coverage for BAADS UA, or (iii) other insurance-related matters, even if such insurance-related matters directly relate to subjects on which we are representing BAADS UA.

**AUGUST 8, 2019**

Kathi Pugh, Commodore  
Bay Area Association of Disabled Sailors  
Page 3

Ken Myers, Steve Fisher, Tracy Kennberg, and Marianne Tassone will be the primary attorneys representing BAADS UA in the Representation; other Fenwick lawyers may also assist with the handling of the Representation.

From time to time, we may use third-party analytical tools and storage solutions, including cloud-based tools and solutions, to analyze and store BAADS UA's confidential information and documents where, in our judgment, use of such tools and solutions best serves the needs of the Representation.

### **Conflicts of Interests**

Based on the information provided to us by BAADS UA, we are not currently aware of any existing ethical conflicts of interest posed by our proposed representation of BAADS UA.

BAADS UA must promptly notify us whenever it becomes aware of any person or entity that is adverse to it or that has any interest that may conflict with BAADS UA's interests in the Representation so that we may search for new conflicts as they may become apparent and take any action that may be appropriate.

### **Fees and Costs for Services**

We are handling the Representation on a pro bono basis, and we will not charge BAADS UA for the time our attorneys spend working on it. We will advance certain costs for BAADS UA's benefit for which BAADS UA will be responsible (these may include costs for filing fees, corporate name reservation fees, third party vendor service fees, outside vendor photocopying, travel expenses and, in litigation matters, deposition expenses, court filing fees and costs of transcripts, etc.), and we will later request that BAADS UA reimburse the Firm for all or some of these expenses.

### **Client's Consent**

By signing this engagement agreement, BAADS UA consents to our use of its name and logo for public identification as a client, along with general descriptions of any non-confidential matters we have handled for BAADS UA.

**AUGUST 8, 2019**

Kathi Pugh, Commodore  
Bay Area Association of Disabled Sailors  
Page 4

### **Termination of Representation**

BAADS UA may terminate our representation of it at any time by notifying us in writing of its desire to do so. Upon termination, BAADS UA may be responsible for payment of costs we paid through the date we received notification of the termination and for any additional costs that are reasonably necessary to protect BAADS UA's interests during the termination of our work on the Representation or transition of BAADS UA's work to another firm. After our work concludes, BAADS UA may ask us to deliver to it the client file for the Representation or to send such client file to another law firm. The client file includes those files to which BAADS UA is entitled under California Rule of Professional Conduct 1.16.

We may also elect to terminate our representation of BAADS UA at any time upon such terms and upon such notice as are required and permitted by the applicable ethics rules.

### **Arbitration of Disputes**

We encourage BAADS UA to bring to our immediate attention any concerns with our services. Most problems can be resolved by communication and discussion. If a dispute arises that we cannot resolve informally, any disputes between us and BAADS UA shall be resolved by arbitration as provided in detail in **Annex A** to this letter. By signing this engagement agreement, BAADS UA will be agreeing to be bound by these arbitration provisions; they are important, so please read them carefully.

### **Effective Date**

This engagement agreement will be effective when we receive one copy of this agreement, countersigned by an authorized representative of BAADS UA. Once effective, this engagement agreement will apply to all services provided by us concerning our representation of BAADS UA, including those provided before the effective date. If we do not receive a countersigned copy of this agreement or any objections to it within 10 days of the date of this agreement and if with BAADS UA's knowledge we begin work for it, the terms of this letter and its annex shall be deemed accepted by BAADS UA and effective for purposes of this representation. BAADS UA may have an obligation to pay us for any costs we paid for its benefit while awaiting execution of the engagement agreement.

### **Conclusion**

**PRIVILEGED AND CONFIDENTIAL**

**AUGUST 8, 2019**

Kathi Pugh, Commodore  
Bay Area Association of Disabled Sailors  
Page 5

If you have any questions about this engagement agreement or the proposed representation, please call me to discuss them. Otherwise, please sign a copy of the engagement agreement below and return it to me. We look forward to working with you.

Sincerely,

FENWICK & WEST LLP

Kenneth B. Clark

Annex

The Bay Area Association of Disabled Sailors, an unincorporated association conducting business in the State of California, agrees to the terms and conditions of this engagement agreement. These terms and conditions include, without limitation, **Annex A**, providing for resolution of disputes by arbitration attached to this letter to which BAADS specifically agrees. I have read this agreement, including **Annex A** and I am authorized to execute this engagement agreement on behalf of Bay Area Association of Disabled Sailors, an unincorporated association conducting business in the State of California.

Date: \_\_\_\_\_, 2019

**BAY AREA ASSOCIATION OF  
DISABLED SAILORS, AN  
UNINCORPORATED ASSOCIATION**

By: \_\_\_\_\_

Its: \_\_\_\_\_

Name: Kathi Pugh

August 8, 2019

## ANNEX A — Dispute Resolution

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### Binding Arbitration of Disputes

Fenwick & West LLP and the Bay Area Association of Disabled Sailors agree that if any dispute arises relating to this engagement agreement, our attorney-client relationship, or services we perform, whether those services are the subject of this particular engagement agreement or otherwise, that dispute will be resolved solely by confidential binding arbitration in Santa Clara County, California, before a retired California state or federal court judge under the auspices and the Comprehensive Arbitration Rules of JAMS. If you would like us to provide a copy of the rules to you, please let us know. The disputes subject to binding arbitration will include, without limitation, disputes regarding negligence, malpractice, breach of fiduciary duty, fraud and any claim based upon a statute, as well as any dispute as to the arbitrability of any such claims. The arbitrator, and not any federal, state, or local court or agency, shall have the exclusive authority to resolve any dispute relating to the interpretation, applicability, enforceability, or formation of this agreement, including, but not limited to, any claim that all or any part of this agreement is void or voidable. Arbitration will be the sole means of resolving any such disputes, and both parties waive their rights to resolve disputes by jury trial or other court proceedings.

**Please note, by agreeing to this binding arbitration provision, Fenwick and BAADS waive certain important rights and protections that otherwise may have been available if the dispute were determined by a court of law in a proceeding governed by judicial procedures, including the right to a jury trial and to appeal. An arbitration award is final and subject to a limited right of appeal, and arbitration may not include procedures, such as discovery, typically available in a judicial proceeding.**

### Confidentiality

Fenwick and BAADS agree that the arbitration proceedings set forth above and any arbitration award that results from those proceedings shall be confidential, unless law or judicial decision otherwise requires disclosure. Fenwick may disclose the details and results of the arbitration to its insurance providers.

### Fee Arbitration

Notwithstanding the above, at BAADS's election, disputes about attorneys' fees and reimbursable costs may first be submitted to nonbinding arbitration before a panel of arbitrators pursuant to the State Bar of California's program for fee arbitration, as set forth in Business & Professions Code §6200 et seq., with the panel to be selected either by a local bar association or the State Bar in accordance with the rules and procedures then in effect. If a fee dispute arises, we will provide BAADS with additional information about the fee arbitration program. If the State or local bar panel declines to hear the fee dispute, or if BAADS or Fenwick rejects the panel's decision on any fee dispute following nonbinding arbitration, then instead of the right to trial mentioned in Business & Professions Code §6204, the fee dispute shall be resolved by confidential binding arbitration before JAMS as set forth above under "Binding Arbitration of Disputes."

### Governing Law

This dispute resolution agreement and the rights of the parties hereunder shall be governed by the Federal Arbitration Act, 9 U.S.C. §§1-16.