

**THE BISHOP AREA WASTEWATER
AUTHORITY BOARD OF DIRECTORS MEETING
City Council Chambers – 301 West Line Street
Bishop, California 93514**

NOTICE TO PUBLIC: In order to minimize the spread of the COVID 19 virus Governor Newsom has issued Executive Orders that temporarily suspend certain requirements of the Brown Act. Please be advised that the Council Chambers remain closed to the public and that some, or all, of the Bishop Area Wastewater Authority Board of Directors may attend this meeting telephonically or via video conference.

You are strongly encouraged to observe the Bishop Area Wastewater Authority meetings live via the City of Bishop website at: <https://www.cityofbishop.com/government/city-council/> and to submit public comments in writing by 3:00 pm on October 19, 2020 or you may join the video conference via Zoom at:

https://us02web.zoom.us/webinar/register/WN_mmXjBQH-QiexC2Hu6ngb3A

Individuals will be asked to register (by providing their name and email address) in order to access the video conference.

To submit a comment you are encouraged to participate:

1. In writing. Please email publicworks@cityofbishop.com and write "Public Comment" in the subject line. In the body of the email, include the item number and/or title of the item as well as your comments. If you would like the comment to be read out loud at the meeting (not to exceed three minutes), please write "Read Out Loud at Meeting" at the top of the email. All comments received by 3:00 pm on October 19, 2020 will be emailed to the Board of Directors and included as an attachment under the Agenda's Item Number as "Public Comment" prior to the meeting. Those comments received after 3:00 pm on October 19, 2020 will be added to the record and shared with the Board of Directors after the meeting. City staff will continuously monitor for public comments received during the meeting as well. You may also hand deliver public comments to the City drop/payment box located at the Church Street entrance to City Hall on or before the deadline noted above.

2. Via Zoom-Webinar. If you choose to join the Bishop Area Wastewater Authority meeting via Zoom-Webinar you will be able to utilize the "hand-waiving" feature to make a public comment and (when appropriate) the Board Chair will call on those who wish to speak (not to exceed three minutes).

In compliance with the Americans with Disabilities Act of 1990, if you need special assistance to participate in this meeting, please contact the City Clerk at 760-873-5863 Extension 24. Notification at least 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102.35.104 ADA Title II].

The Bishop Area Wastewater Authority thanks you in advance for taking all precautions to prevent spreading the COVID 19 virus.

**TUESDAY, OCTOBER 20, 2020
8:00 A.M.**

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **PUBLIC COMMENT: NOTICE TO THE PUBLIC:** See modified public comment procedure above. Under California law the Board of Directors is prohibited from generally discussing or taking action on items not included in the agenda; however, the Board of Directors may briefly respond to comments or questions received from members of the public. Therefore, the Board of Directors will be provided with all public comments but will not generally discuss the matter or take action on it.
5. **CONSENT CALENDAR – NOTICE TO THE PUBLIC:** All matters under the Consent Calendar are considered routine by the Authority and will be acted on by one motion.
 - A. **FOR APPROVAL/FILING**
 1. [Board of Directors of the Bishop Area Wastewater Authority Meeting Minutes – July 21, 2020](#)
 2. [Guidelines for Implementing the California Environmental Quality Act \(CEQA\)](#) – The State CEQA Guidelines require local agencies to adopt “objectives, criteria and procedures” to implement the requirements of CEQA and the State CEQA Guidelines. (State CEQA Guidelines [14 Cal. Code Regs.] section 15022). The State CEQA Guidelines codified at 14 Cal. Code Regs. Section 15000 et seq. provide implementation direction and reflect relevant court opinions.
 - Recommended Action: Adopt Resolution No. _____ approving the State CEQA Guidelines for Implementing the California Environmental Quality Act for Bishop Area Wastewater Authority.
 3. [Investment Policy](#) – The California Legislature provides standards for governing bodies authorized to make investment decisions for local agencies.
 - Recommended Action: Adopt Resolution No. _____ approving the Fiscal Year July 2020 – June 2021 Investment Policy.
 4. [Conflict of Interest Code of the Bishop Area Wastewater Authority](#) – The Political Reform Act (the “Act”) requires all public agencies to adopt and maintain a Conflict of Interest Code containing the rules for disclosure of personal assets and the prohibition from making or participating in making governmental decisions that may affect any personal assets. A conflict of interest code must specifically designate all agency positions, except for

those listed in Gov. Code § 87200, that make or participate in the making of agency decisions which may foreseeably have an effect on any financial interest of that person, and assign specific types of personal assets to be disclosed that may be affected by the exercise of powers and duties of that position. (Gov. Code §§ 87300, 87302.)

- Recommended Action: Adopt Resolution No. _____ approving the Conflict of Interest Code of Bishop Area Wastewater Authority and directing that such Code be submitted to the Inyo County Board of Supervisors as the Authority's code-reviewing body (Gov. Code § 82011) requesting approval of the adopted Code as required under Government Code section 87303.

5. **Bishop Area Wastewater Authority (BAWA) Bylaws and Policy Manual** – Community Services District Law requires the Board of Directors to adopt rules or bylaws for its proceedings and adopt policies for the operation of the Authority. (Gov. Code, §§ 61000et seq., 61045(f), 61045(g).

- Recommended Action: Adopt Resolution No. _____ approving the BAWA Bylaws and Policy Manual.

6. NEW BUSINESS

- A. **APPOINT BISHOP AREA WASTEWATER AUTHORITY SECRETARY** – Board consideration to appoint Michele Rhew as Secretary – Deston Dishion.

- B. **RESOLUTION** – Resolution of the Board of Directors of the Bishop Area Wastewater Authority Providing Guidance to Staff Concerning Certain Properties Owned by the Los Angeles Department of Water and Power – Board consideration to approve the Resolution – Walt Pachucki.

- C. **ADMINISTRATIVE SERVICES AGREEMENT** – Board consideration to approve the execution of the Administrative Services Agreement – Ward Simmons.

- D. **CONSULTANT PROCUREMENT TO COMPLETE TITLE 22 ENGINEERING REPORT** – Board consideration to approve the Consultant Procurement to Complete a Title 22 Engineering Report – Deston Dishion.

- E. **FISCAL YEAR 20/21 INTERIM BUDGET** – Board consideration to approve the Fiscal Year 20/21 Interim Budget – Deston Dishion.

7. STAFF AND BOARD REPORTS

8. **ADJOURNMENT:** The next regularly scheduled meeting of the Bishop Area Wastewater Authority will be January 19, 2021, at 8:00 a.m. in the Bishop City Council Chambers, 301 West Line Street, Bishop.

**MINUTES OF THE REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE
BISHOP AREA WASTEWATER AUTHORITY
HELD ON
Tuesday, July 21, 2020
Via Zoom Teleconferencing**

In order to minimize the spread of the COVID-19 virus Governor Newsom had issued Executive Orders that temporarily suspended certain requirements of the Brown Act, and this Board Meeting was held Via Zoom Teleconferencing. The Board Members and Staff were provided with a call-in number, computer link and meeting number to be able to attend this meeting. The Public was able to view the webcast live on the City of Bishop's web link.

CALL TO ORDER

Chair Pachucki called the meeting to order at 8:04 a.m.

PLEDGE OF ALLEGIANCE

Chair Pachucki led the Pledge of Allegiance.

ROLL CALL

PRESENT:

Chair Walt Pachucki
Vice-Chair Stephen Muchovej
Board Member Chris Costello
Board Member Ron Stone

ABSENT:

None

OTHERS PRESENT:

Ron Phillips, Authority Treasurer/Auditor-Controller
Deston Dishion, Authority Administrator
Jennifer Krafcheck, Authority Interim Secretary
Steve Nixon, Eastern Sierra Community Service District Chief Plant Operator
Anita Johnson, Eastern Sierra Community Service District Assistant Office Manager
Robin Picken, City of Bishop Clerk

PUBLIC COMMENT

There was no public comment.

CLOSED SESSION

In accordance with Government Code Section 54957 the Authority Board may adjourn to a closed session regarding Public Employee Appointment, Title: Authority General Counsel.

8:07 a.m. The Authority Board Members adjourned to closed session by leaving the open Zoom meeting and adjourning to a Zoom Breakout Room. Treasurer/Auditor-Controller Phillips and Administrator Dishion also attended the closed session in the Zoom Breakout Room.

8:16 a.m. The Authority Board and Staff reconvened to open session via Zoom.

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CLOSED SESSION – Continued

Report out of Closed Session

Chair Pachucki reported that during the closed session a motion was made by Board Member Stone and seconded by Board Member Costello to have the Bishop Area Wastewater Authority appoint the legal firm of Best, Best, and Krieger, LLC as the Authority's legal counsel effective upon the approval of an agreement for legal services with Best, Best, and Krieger. The vote was as follows: Vice-Chair Muchovej-aye; Board Member Stone-aye; Board Member Costello-aye; Chair Pachucki-aye. The motion carried unanimously: 4-0.

APPROVAL OF LEGAL SERVICES AGREEMENT

The Board reviewed a legal services agreement (Agreement) submitted by Best, Best, and Krieger, LLC. Discussion followed.

Motion

Vice-Chair Muchovej moved to accept the Agreement for Legal Services with Best, Best, and Krieger, LLC. Board Member Costello seconded. Motion carried unanimously: 4-0.

Board Member Costello-aye; Vice-Chair Muchovej-aye; Chair Pachucki-aye;
Board Member Stone-aye.

Administrator Dishion will contact Best, Best, and Krieger to let them know the Agreement was approved, and Administrator Dishion will be the primary point of contact for the Authority.

CONSENT ITEMS:

A. Approval of Minutes of Authority Formation Meeting on June 30, 2020.

B. Sample results from Monitor Wells, 2nd quarter 2020.

There was brief discussion regarding Administrator Dishion graphing the laboratory results for the City's monitoring wells and the District's monitoring wells quarterly for internal review and use.

Motion

Vice-Chair Muchovej moved to approve the Consent Calendar as presented. Board Member Stone seconded. Motion carried unanimously: 4-0.

Board Member Costello-aye; Vice-Chair Muchovej-aye; Chair Pachucki-aye;
Board Member Stone-aye.

UPDATE ON RESOURCE CONCEPTS WORK AND POTENTIAL ADDENDUM TO AGREEMENT / UPDATE ON TIMING OF POTENTIAL ACQUISITION OF PROPERTY FROM LADWP. (Farm Management Plan): Discussion Only.

Administrator Dishion summarized the Staff Report dated July 15, 2020 that was submitted to the Authority Board in the Agenda Packet regarding the Resource Concepts, Inc. (RCI) work regarding irrigation alternatives, and the potential acquisition of property from the Los Angeles Department of Water and Power. Discussion followed. The Eastern Sierra Community Service District will continue working with RCI regarding a potential addendum to the existing agreement regarding a farm management plan and will continue to bill the City of Bishop for half the cost. No action was taken by the Authority Board.

INTERIM BUDGET DISCUSSION

The Authority Board reviewed the process for preparing and adopting the Interim Budget for the Authority. Section 6.2.1 of the JPA Agreement provides that the Authority Board shall, within

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INTERIM BUDGET DISCUSSION - Continued

one hundred and twenty (120) days of the Effective Date of the JPA Agreement, approve an interim budget, which shall constitute the operating budget until the Annual Budget is adopted. The JPA was effective on June 25, 2020. Accordingly, the Interim Budget must be adopted no later than October 23, 2020.

Administrator Dishion reviewed with the Authority Board items to be included in the 2020-2021 Interim Budget including testing, and professional services such as land appraisal, environmental efforts, legal services, and insurance. The proposed irrigation project and possible sewer diversion project were also considered. Discussion continued. No action was taken by the Authority Board.

Later in the meeting the Board discussed the timing of the interim budget adoption. The Board will meet for a Special Meeting on September 22, 2020 at 8:00 a.m. to discuss a draft interim budget

INFORMATIONAL ITEMS:

A. Maps of Discharge Areas and Irrigated Areas: The Authority Board reviewed the maps of the discharge areas, and current and future irrigation areas.

B. Plant overview of the Bishop Treatment Plant and the ESCSD Treatment Plant: Eastern Sierra Community Service District Chief Plant Operator Nixon and Authority Administrator/City of Bishop Public Works Director Dishion gave presentations regarding the District's and City's wastewater treatment plants and processes.

DISCUSSION REGARDING FUTURE ACTIONS - The Authority Board discussed the general purpose of the Authority and timing of and activities related thereto for purposes of identifying future Board actions as follows:

- Adoption of Bylaws
- Insurance Coverage: Liability coverage for property and operations, future bonding for Authority Officers and Treasurer/Auditor Controller
- Adoption of Conflict of Interest Code (within 180 days of the effective date of the JPA Agreement)
- Adoption of Policies and Procedures

The Authority Board determined that legal counsel should be able to provide the documents for approval by the Authority Board in time to meet the requirement deadlines. The Authority Board Members will submit their Statements of Economic Interests Form 700s to the Inyo County Clerk-Recorder.

FUTURE AGENDA ITEMS

The Authority Board discussed future agenda items including adoption of bylaws, insurance coverage, adoption of a Conflict of Interest Code, adoption of policies and procedures, adopting the interim budget, and a progress report regarding Resource Concepts, Inc. Earlier in the meeting Administrator Dishion had mentioned that City of Bishop Public Works Secretary Michele Rhew would be willing to serve as Secretary to the Bishop Area Wastewater Authority Board (which may be a future agenda item).

ADDITIONAL BOARD AND STAFF REPORTS

Administrator Dishion and District Chief Plant Operator Nixon reported they met with Jehiel Cass, Senior Water Resources Control Engineer for the State Water Resources Control Board-Lahontan Region.

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ADDITIONAL BOARD AND STAFF REPORTS - Continued

Administrator Dishion reported that there is a lot of funding available for water districts and may be available for wastewater agencies. Discussion followed regarding possible avenues of funding including the Bishop Paiute Tribe (a customer of the District) and Inyo-Mono Integrated Regional Water Management Program (IRWMP).

ADJOURNMENT

Chair Pachucki adjourned the meeting at 9:33 a.m. to the Special Meeting to be held on Tuesday, September 22, 2020 at 8:00 a.m. in the City of Bishop City Council Chambers unless it is held via Zoom Teleconferencing due to COVID-19 concerns. Information will be listed on the Special Meeting Agenda to be posted at least 24 hours prior to the Special Meeting.

Jennifer Krafcheck
Interim Secretary

STAFF REPORT

To: Bishop Area Wastewater Authority Board
From: General Counsel
Subject: Guidelines for Implementing the California Environmental Quality Act
Prepared on: October 16, 2020

Attachments: Resolution No. XXXX approving the State CEQA Guidelines for Implementing the California Environmental Quality Act for the Bishop Area Wastewater Authority

Approved By: _____
Deston Dishion, Administrator

Background/History: The California Environmental Quality Act (“CEQA”), codified at Public Resources Code section 21000 et seq., is California’s most comprehensive environmental law. It generally requires public agencies to evaluate the environmental effects of their actions before they are taken. CEQA also aims to prevent significant environmental effects from occurring as a result of agency actions by requiring agencies to avoid or reduce, when feasible, the significant environmental impacts of their decisions.

To this end, CEQA requires public agencies to adopt specific objectives, criteria and procedures for evaluating public and private projects that are undertaken or approved by such agencies.

Analysis/Discussion: The Bishop Area Wastewater Authority is adopting the State CEQA Guidelines in compliance with CEQA’s requirements. These Guidelines reflect recent changes in the State CEQA Guidelines and relevant court opinions. These State CEQA Guidelines also provide instructions and forms for preparing all environmental documents required under CEQA.

Budget Impacts:
None.

Legal Review:
BAWA Attorney Simmons has reviewed this item and finds that the recommended action complies with the law.

Recommendation: Adopt Resolution No. _____ regarding the adoption of the State Guidelines for Implementing the California Environmental Quality Act for Bishop Area Wastewater Authority.

RESOLUTION NO. _____

**A RESOLUTION OF THE BISHOP AREA WASTEWATER
AUTHORITY ADOPTING GUIDELINES FOR IMPLEMENTING
THE CALIFORNIA ENVIRONMENTAL QUALITY ACT
(PUBLIC RESOURCES CODE §§ 21000 ET SEQ.)**

WHEREAS, the California Legislature has amended the California Environmental Quality Act (“CEQA”) (Pub. Resources Code §§ 21000 et seq.), the Natural Resources Agency has amended portions of the State CEQA Guidelines (Cal. Code Regs, tit. 14, §§ 15000 et seq.), and the California courts have interpreted specific provisions of CEQA; and

WHEREAS, Public Resources Code section 21082 requires all public agencies to adopt local guidelines setting forth the objectives, criteria and procedures for (1) the evaluation of public and private projects undertaken or approved by such public agencies, and (2) the preparation, if required, of environmental impact reports and negative declarations in connection with that evaluation; and

WHEREAS, the Bishop Area Wastewater Authority must adopt guidelines for implementing CEQA.

NOW, THEREFORE, the Bishop Area Wastewater Authority (“Authority”) hereby resolves as follows:

SECTION 1. The Authority hereby adopts the State CEQA Guidelines as its own local guidelines for setting forth the objectives, criteria and procedures for implementing CEQA, a copy of which is codified at California Code of Regulations, title 14, section 15000 et seq. The usage of the State CEQA Guidelines, as they may be amended, as the Authority’s local guidelines shall continue in full and effect until and unless the Authority otherwise designates.

ADOPTED this _____ day of September, 2020.

Ayes:

Nays:

Absent:

Abstain:

Walt Pachucki, Chair

ATTEST:

Secretary of Board of Directors

BISHOP AREA WASTEWATER AUTHORITY

INVESTMENT POLICY

Fiscal Year July 2020 — June 2021

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SECTION 1.0

PURPOSE AND SCOPE

1.1 Purpose

- 1.1.1 The City of Bishop (“City”) acts as the Trustee of funds for the Bishop Area Wastewater Authority (“Authority”), and therefore, all funds of the Authority shall be invested in accordance with the City’s Investment Policy, which is consistent with principles of sound treasury management and in accordance with the provisions of California Government Code Section 53600, *et seq.*, and guidelines established by the California Municipal Treasurer’s Association, the California Society of Municipal Finance Officers, and this Investment Policy (“Policy”). These funds are defined and detailed in the City’s Comprehensive Annual Financial Report and include any new funds created unless specifically excluded by the Authority Board.
- 1.1.2 This Investment Policy is intended to outline the guidelines and practices to be used in effectively managing the Authority’s available cash and investment portfolio. It applies to all cash and investment assets of the Authority. Authority monies not required for immediate expenditure will be invested in compliance with governing provisions of law, (Government Code Section 53600 *et seq.*) and this policy.
- 1.1.3 Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the proper management of public funds; not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived. The standard of prudence to be used by the investment officials shall be the “prudent investor” standard (Government Code Section 53600.3) and shall be applied in the context of managing an overall portfolio.
- 1.1.4 Investment officers acting in accordance with written procedures and the investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security’s credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments.
- 1.1.5 Cash with Fiscal Agents are exempt from the provisions of the Government Code Section 53600 *et seq.* and are therefore not covered under this Investment Policy, but rather they are governed by the debt agreement associated with the bond proceeds.

1.2 Investment Goal

- 1.2.1 The Board's ultimate investment goal is to enhance the Authority's financial condition while ensuring the safety of its funds invested and that funds are readily available when needed.
- 1.2.2 In so doing, the Authority will abide by Section 53600 *et seq.* of the Government Code, which establishes specific rules for investment of public funds by California public agencies.

1.3 Objective

- 1.3.1 The objective of this policy is to maximize return on investment of all idle funds through the optimum operation of the Authority's "Cash Management System." This system is designed to reliably forecast and monitor the cash needs of the Authority.
- 1.3.2 The Finance Manager will obtain the highest yield possible on Authority deposits consistent with the Authority's policy of preserving principle and maintaining liquidity.
- 1.3.3 As specified in Government Code Section 53600.5, when investing, reinvesting, purchasing, acquiring, exchanging, selling and managing public funds, the primary objectives, in priority order, of the investment activities shall be:

1.3.3.1 Safety:

Safety is the minimizing of risk associated with investing and refers to the attempt to reduce the potential for loss of principal, interest, or a combination of the two.

Safety of principal is the foremost objective of the investment program. Investments of the Authority shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio.

To attain this objective, diversification is required in order that potential losses on individual securities do not exceed the income generated from the remainder of the portfolio.

All Authority investments are controlled by the restrictions contained in Section 53601 of the Government Code. *The First Level* of risk control is to invest in instruments as described above that are the most credit worthy.

The Second Level of risk control is to invest in instruments that have maturities coinciding with dates of anticipated disbursements, thereby reducing the risk of loss of interest from an early disposition or withdrawal.

The Third Level of risk control is to invest in instruments that have the greatest potential for interest return, thereby avoiding the risk of lost earnings.

The Authority will only invest in those instruments that are considered very safe, in accordance with Government Code Section 53600 *et. seq.*

1.3.3.2 Liquidity

Liquidity refers to “the ability to easily sell” at any time with a minimal risk of loss of principle or interest.

Liquidity is an important quality for Authority investments since cash flow can be unpredictable.

The investment portfolio will remain sufficiently liquid to enable the Authority to meet all operating requirements, which might be reasonably anticipated.

The Authority will attempt to maintain liquidity of investments in conjunction with safety and yield.

1.3.3.3 Return on Investments:

Yield or rate of return is the earnings an investment can provide.

The investment portfolio shall be designed with the objective of attaining a market rate of return throughout the budgetary and economic cycles, taking into account the investment risk constraints and the cash flow characteristics of the portfolio.

The Authority attempts to obtain the highest yield prudent when selecting an investment, provided that the criteria stated in this Policy for safety and liquidity are first met.

SECTION 2.0

AUTHORITY FOR INVESTMENT OF AUTHORITY FUNDS

2.1 Authority

- 2.1.1 Authority to manage the investment program is derived from California Government Code Section 53600 *et. seq.* Management responsibility for the investment program resides with the Finance Manager.
- 2.1.2 No person may engage in an investment transaction except as provided under the terms of this Policy.
- 2.1.3 The Finance Manager shall be responsible for all the transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials. Under the provisions of California Government Code Section 53600.3, the Finance Manager is a trustee and a fiduciary subject to the prudent investor standard.
- 2.1.4 All investment transactions or reporting conducted by the Finance Manager shall be reviewed and approved by the President and the Board of Directors.

2.2 Policy Review

- 2.2.1 The Finance Manager or his/her designee shall review the Policy annually, for approval of the Board of Directors.

2.3 Ethics and Conflicts of Interest

- 2.3.1 Authority officers and employees with delegated investment program responsibility shall refrain from personal investment activities that could conflict with the proper execution of the investment program or impair their ability to make impartial decisions. Such activities include, but are not limited to:
 - 2.3.1.1 Knowingly using the same broker who is managing Authority investments for personal investments.
 - 2.3.1.2 Knowingly accepting gifts or entertainment from any broker who is managing Authority investments, or who has expressed a desire to manage Authority investments. The term “broker” here refers to an individual and not to a brokerage.

2.4 Bonding

2.4.1 The Finance Manager and any and all individuals involved in the investment practices and investment decisions of the Authority shall be bonded by a recognized insurance company, duly authorized to transact a general surety business in the State of California.

2.5 Liability Insurance

2.5.1 The Authority shall provide liability insurance for the protection of the Finance Manager and/or any authorized investment broker and other authorized individuals with fiduciary responsibility to the Authority's investments.

SECTION 3.0

INVESTMENT GUIDELINES AND STRATEGY

The Board hereby adopts the following investment guidelines and strategies for the investment of Authority funds:

3.1 Cash Availability

- 3.1.1 Five-year cash flow analysis will be developed to serve as a basis for determining cash requirements and cash available for investment.
- 3.1.2 Where practical, cash receipts will be invested on a pooled basis with separate accounting for Water, Wastewater and Utilities.
- 3.1.3 All investment earnings (losses) will be allocated regularly based on cash balances of each such account.

3.2 Internal Controls Over Investments

- 3.2.1 The Authority shall develop an adequate system of internal investment controls and a segregation of responsibilities of the investment functions in order to safeguard assets of the Authority. The Finance Manager will be responsible for maintaining adequate internal controls over invested funds.
- 3.2.2 The Finance Manager, or his/her designee will continually monitor investment advisors, brokers and financial institutions used by the Authority to ensure that they continue to provide expertise, safety of investments with maximum return on investment at a reasonable price.
- 3.2.3 The Finance Manager, or his/her designee, will make every effort to enroll in continuing education programs to enhance knowledge and skills necessary to manage and oversee the Authority's investments and its advisors.
- 3.2.4 The Authority will only invest in those financial instruments that are authorized in the California Government Code in Section 53601 as amended and as specifically authorized in this Investment Policy.
- 3.2.5 The Authority will purchase financial instruments with idle funds and will periodically receive three (3) verbal quotes, except in cases where the State of California Local Agency Investment Fund is utilized.

3.2.6 The Authority may use the services of an investment advisor or broker; however, those advisors may at no time have autonomous control over Authority funds and those funds must be held by a third party financial institution.

3.3 Authorized Financial Institutions and Dealers

Investment advisors, brokers and financial institutions will be subject to the following requirements:

3.3.1 Section 53601.5 of the California Government Code states that the purchase by a local agency of any investment authorized pursuant to Section 53601 or 53601.1, not purchased directly from the issuer, shall be purchased either from an institution licensed by the state as a broker-dealer, as defined in Section 25004 of the Corporations Code, or from a member of a federally regulated securities exchange, from a national or state-chartered bank, from a savings association or federal association (as defined by Section 5102 of the Financial Code) or from a brokerage firm designated as a primary government dealer by the Federal Reserve bank.

3.3.2 Before engaging in investment transactions with a broker/dealer, the Finance Manager, or his/her designee, shall have received from said firm, a signed certification form. This form shall attest that the individual responsible for the Authority's account with that firm has reviewed the Authority's Investment Policy and that the firm understands the Policy and intends to present only those investment recommendations and transactions to the Authority that are appropriate under the terms and conditions of the Investment Policy.

3.3.3 The advisor, broker or institutions must have offices or branches in California.

3.3.4 The Finance Manager, or his/her designee, will review the list of Authority financial advisors, brokers and financial institutions annually to ensure that they continue to be of the highest caliber in advice, safety and reputation.

3.3.5 The Authority's investments will be reviewed by the Finance Manager, or his/her designee, on a monthly basis, and will report on a quarterly basis the results of the review to the Board of Directors of the Authority.

3.4 Financial Instruments

The purchase of financial instruments will be made with the intent of holding the instruments to maturity unless market conditions dictate otherwise.

SECTION 4.0

AUTHORIZED INVESTMENT

4.1 Authorized and Suitable Investments

- 4.1.1 The Authority is empowered by California Government Code Section 53601 *et. seq.*, which contains a detailed summary of the limitations and special conditions that apply to each of the allowed investment securities.
- 4.1.2 The Finance Manager or his/her designee may only invest in financial instruments as described in the California Government Code Section 53601 and in accordance with specific guidelines, which set forth the authorized financial instruments.
- 4.1.3 The table on the following page compares California Government Code allowed investments with Authority Policy as to limits of maturity and percentage allocation of total portfolio. Section 5 of this Investment Policy explains in detail the definition of the Investment types, as well as the legal authority for each.

Gov. Code Section	Investment Type	STATE CODE			AUTHORITY POLICY		
		Max Maturity	Auth. Limit (%)	Req'd Rating	Max Maturity	Auth. Limit (%)	Req'd Rating
53601 (a)	Local Agency Bonds	5 yrs	None	None	5 yrs	10%	None
53601 (b)	US Treasury bills, Notes, or Bonds	5 yrs	None	None	5 yrs	None	None
53601 (c)	State Registered Warrants, Notes or Bonds of this state	5 yrs	None	None	5 yrs	10%	None
53601 (d)	State Registered Warrants, Notes, or Bonds of the other 49 states	None	None	N/A	None	None	N/A
53601 (e)	Notes & Bonds of other local California agencies	5 yrs	None	None	5 yrs	None	None
53601 (f)	U. S. Agencies	5 yrs	None	None	5 yrs	None	None
53601 (g)	Bankers Acceptances ⁽¹⁾	180 days	40%	None	180 days	30%	None
53601 (h)	Prime Commercial Paper ⁽²⁾	270 days	25%	A1/p1	270 days	25%	A1/p1
53601 (i)	Negotiable Certificates of Deposit ⁽³⁾	5 yrs	30%	None	5 yrs	30%	None
53601 (j)	Repurchase Agreements•	1 yr	None	None	Not Allowed		
53601 (j)(4)	Reverse Repurchase Agents	92 days	20%	None	Not Allowed		
53601 (k)	Medium Term Corporate Notes	5 yrs	30%	A	5 yrs	10%	AAA
53601 (l)	Money Market Mutual Funds & Mutual Funds•	5 yrs	20%	2-AAA	5 yrs	15%	2-AAA
53601 (n)	Non-negotiable Certificates of Deposit	None	None	None	None	None	None
53601 (o)	Mortgage Pass-Through Securities	5 yrs	20%	AA	5 yrs	20%	AAA
16429.1	Local Agency Inv. Fund (LAIF)	N/A	None	None	N/A	None	None

See California Government Code Section 53601(j) for limits on the use of repurchase and reverse repurchase agreements. Mutual Funds maturity may be defined as the weighted average maturity; money market mutual funds must have an average maturity of 90 days or less, per SEC regulations.

- (1) No more than 30% of surplus funds may be invested in Bankers Acceptances of any one commercial bank.
- (2) Commercial paper issuers must be organized and operating within U. S. and have total assets in excess of \$500 million, and have "A" or higher rating for issuer's debt, other than commercial paper, by Moody's or Standard and Poor's. Purchases may not exceed 10% of outstanding paper of an issuing corporation.
- (3) Prohibited if the CD's are issued by a state or federal credit union if a member of the legislative body or any person with investment decision making authority also serves on the Board of Directors, or any committee appointed by the Board of Directors, or the credit union committee or the supervisory committee of the state or federal credit union issuing the negotiable CDs.

4.2 Collateralization

4.2.1 All Certificates of Deposits must be collateralized by U. S. Treasury Obligations. Collateral must be held by a third party trustee and valued on a monthly basis. The percentage of collateralization on repurchase and reverse repurchase agreements will adhere to the amount required under California Government Code Section 53601(j)(2).

4.3 Safekeeping and Custody

4.3.1 All security transactions entered into by the Authority shall be conducted on a delivery-versus-payment (DVP) basis. All securities purchased or acquired shall be delivered to the Authority by book entry, physical delivery or by third party custodial agreement, as required by California Government Code Section 53601.

4.4 Diversification

4.4.1 It is the policy of the Authority to diversify its investment portfolio. Assets shall be diversified to eliminate the risk of loss resulting from over concentration of assets in a specific maturity, a specific issuer or a specific class of securities. Diversification strategies shall be determined and revised periodically. In establishing specific diversification strategies, the following general policies and constraints shall apply:

4.4.1.1 Portfolio maturities shall be matched versus liabilities to avoid undue concentration in a specific maturity sector.

4.4.1.2 Maturities selected shall provide for stability of income and liquidity.

4.4.1.3 Disbursement and payroll dates shall be covered through maturities investments, marketable U. S. Treasury bills or other cash equivalent instruments such as money market mutual funds.

4.5 Reporting

4.5.1 In accordance with California Government Code Section 53646(b)(1), the Finance Manager, or his/her designee, shall submit to each member of the Board of Directors a quarterly investment report. The report shall include a complete description of the portfolio, the type of investments, the issuers, maturity dates, par values and the current market values of each component of the portfolio, including funds managed for the Authority by third party contracted managers. The report will also include the source of the portfolio valuation. As specified in California Government Code Section 53646(e), if all funds are placed in LAIF, FDIC-Insured accounts and/or in a County investment pool, the foregoing report elements may be replaced by copies of the latest statements from such institutions. The report must also include a certification that all investment actions executed since the last report have been made in full compliance with the Investment Policy, and the Authority will meet its expenditure obligations for the next six months, as required by California Government Code Section 53646, subsections (b)(2) and (3) respectively. The Finance Manager, or his/her designee, shall maintain a complete and timely record of all investment transactions.

4.6 Prohibited Investments

4.6.1 Under the provisions of California Government Code Sections 53601.6 and 53630, the Authority shall not invest any funds covered by this Investment Policy in inverse floaters, range notes, or mortgage-derived, interest-only strips.

SECTION 5.0

EXPLANATION OF INVESTMENT TYPES

5.1 State and Local Agencies

5.1.1 *Definition:* These are bonds, notes, warrants or other evidences of indebtedness of any local or State agency, including as Authority's own bonds, within the State of California. This includes bonds payable solely out of the revenues from a revenue producing property owned, controlled or operated by the local or State agency, or by a department, board, agency, or authority of the local agency or State.

Legal Authority: Section 53601(a,c,d,e) of the California Government Code authorizes local and State agencies to purchase these bonds with no limitations as to the amount that can be owned.

5.2 U. S. Treasuries

5.2.1 *Definition:* These are instruments in which the full faith and credit of the United States Government is pledged. They are designated as Bills, Notes, or Bonds, depending on their maturity.

Legal Authority: Section 53601(b) of the Government Code authorizes local agencies to purchase U. S. Treasuries with no limitations as to the amount that can be owned of each.

5.3 Specified Bank Obligations

5.3.1 *Definition:* This category includes securities issued by federally owned or sponsored agencies that have the backing of the full faith and credit of the Federal Government. These securities are very liquid and marketable and they offer a wide range of available maturities. Bank obligations in this category are limited to certain federally owned or sponsored agencies such as Banks for Cooperatives, Federal Land Banks, Federal Intermediate Credit Banks, and Federal Home Loan Banks. Also included are obligations, participations, or other instruments of, issued by, or fully guaranteed by the Federal National Mortgage Association, guaranteed portions of Small Business Administration notes, and obligations, participations, or other instruments of, or issued by, a Federal agency or a United States government-sponsored enterprise.

Legal Authority: Section 53601(f) of the Government Code allows public agencies to invest in obligations issued by banks for these federally sponsored agencies.

5.4 Bankers' Acceptance

5.4.1 *Definition:* A Bankers' Acceptance (BA) is a time draft drawn on and accepted by a bank for payment of the shipment or storage of merchandise. The initial obligation of payment rests with the drawer, but the bank substitutes its credit standing for that of the borrower and assumes the obligation to pay face value at maturity.

Legal Authority: Section 53601(g) limits investments in this category to those Bankers' Acceptances that are eligible for purchase by the Federal Reserve System and not exceeding 180 days' maturity. In addition, no more than 40% of the Authority's surplus funds may be invested in BA's, and no more than 30% may be invested in any one bank.

5.5 Commercial Paper

5.5.1 *Definition:* Commercial paper consists of promissory notes of large business concerns of high credit standing, usually maturing in four to six months. These Corporate IOU's are bought and sold in the open market. Large companies raise short-term capital needs with this type of instrument.

Legal Authority: Section 53601(h) of the Government Code allows public agencies to invest in only "prime" quality Commercial Paper issued with the highest rating provided by Moody's Investors' Service, Inc. or Standard and Poor's Corporation. Eligible paper is further limited to issuing corporations: (1) organized and operating within the United States, (2) having total assets in excess of \$500 million dollars and (3) having an "A" or its equivalent or higher rating for the issuer's debt, other than commercial paper, if any, as provided for by Moody's or Standard and Poor's. Commercial Paper may not exceed 270 days maturity and must not represent more than 10% of the outstanding paper of the issuing corporation. In addition, the amount invested in this type of instrument cannot exceed 25% of the total funds available to the Authority.

5.6 Negotiable Certificates of Deposit

5.6.1 *Definition:* A CD is a negotiable instrument evidencing a time deposit with a bank at a fixed rate of interest for a fixed period. CD's of this type are not collateralized and should be considered an unsecured deposit.

Legal Authority: Section 53601(i) of the Government Code allows public agencies to invest a maximum of 30% of surplus funds in the CD's of State or Federal associations, credit unions or State licensed foreign banks. Section 53601(i) also stipulates that these investments are not allowed if anyone on the legislative body, its officers or staff with oversight or signing authority also serves on its Board of Directors or a committee of the credit union. Section 53638 stipulates that negotiable CD's may not exceed the shareholder's equity of the bank, and that the amount of CD's purchased from a State or Federal association may not exceed the total of the net worth of that association unless the purchase amount is less than \$500,000 and the deposits are insured or secured as required by law.

5.7 Repurchase Agreements

5.7.1 *Definition:* A Repurchase Agreement (Repo) involves two simultaneous transactions. One transaction involves the sale of securities (collateral) by a borrower of funds, typically a bank or broker/dealer in governments or agencies, to a lender of funds. The lender can be any investor with cash to invest. The second transaction is the commitment by the borrower to repurchase the securities at the same price plus a predetermined amount of interest on an agreed future date.

Legal Authority: Section 53601(j) of the Government Code permits Repos in any security that is allowed for purchase as defined in that same section of the Code and for a term of one year or less. It also places restrictions on the transactions. The value of underlying securities must be at least 102% of the funds borrowed against those securities and transactions must be made only with primary dealers of the Federal Reserve Bank of New York. Subject to fluctuations in the market, if the value falls below 102%, the value must be brought back up by the next business day.

5.8 Medium Term Corporate or Bank Notes

5.8.1 *Definition:* A Medium Term Note is a promise to pay, issued by a corporation or a bank at a fixed interest rate for a fixed period of nine months to fifteen years. Most are unsecured, although some are collateralized or carry other credit enhancements such as letters of credit.

Legal Authority: Section 53601(k) of the Government Code allows public agencies to invest a maximum of 30% of surplus funds in Medium Term Notes for a maximum maturity of five years. The notes must be issued by an U. S. Corporation or by a depository institution licensed by the United States or any State. To minimize risk, the notes must be rated in a rating category of “A” or its equivalent or better by a nationally recognized rating service, like Moody’s Investors’ Service, Inc. or Standard and Poor’s Corporation.

5.9 Designated Mutual Funds

5.9.1 *Definition:* These are companies that are defined under IRS Code 26 U.S.C. 851, which are typically mutual funds that make diversified investments for their shareholders.

Legal Authority: Section 53601(l) of the Government Code authorizes investments in mutual funds as long as the mutual companies are investing only in those securities and obligations otherwise authorized for direct investment by public agencies. Additionally, these companies must have attained the highest rating provided by at least two of the three largest nationally recognized rating services, or have an investment advisor registered with the SEC with assets under management in excess of \$500 million and with at least five (5) years’ experience investing in statutorily permitted securities. Investments in this category are also limited to 20% of total funds available, and no more than 10% of the funds may be invested in shares of beneficial interest of any one mutual fund.

5.10 Non-negotiable Certificates of Deposit (CD)

5.10.1 *Definition:* A Non-negotiable CD is an instrument evidencing a deposit with a financial institution for a fixed period of time and normally for a fixed rate of interest. They can be collateralized with securities or mortgages or, if issued in denominations of \$100,000 or less, they can be insured by the Federal Deposit Insurance Corporation if issued by a bank, or the Federal Savings and Loan Insurance Corporation if issued by a savings and loan association.

Legal Authority: Section 53601(n) of the Government Code allows public agencies to invest in Non-negotiable CD’s of banks or savings and loan associations with no limitations.

5.11 Mortgage Backed Securities

5.11.1 *Definition:* Mortgage Backed Securities are issued by U. S. Government agencies and are collateralized by home loans that create mortgage pools which are purchased and serve as payment pass-through obligations.

Legal Authority: Section 53601(o) of the Government Code allows public agencies to invest in mortgage pass-through and mortgage-backed securities rated in a rating category of “AA” or its equivalent or better by a nationally recognized rating service. Purchases of these securities are allowed for the Authority; they must carry a rating category of “AAA” or better, may not exceed 20% of the Authority’s surplus money that may be invested, and the term may not exceed five years.

5.12 Local Agency Investment Fund (LAIF)

5.12.1 *Definition:* The Local Agency Investment Fund (LAIF) is a special fund in the State of California Treasury created by law. The law permits local government agencies (cities, counties, and special districts) to pool idle monies in this fund and utilize the trained personnel in the State Treasurer’s Office for its investment.

Legal Authority: Section 16429.1 of the Government Code authorizes local agencies to invest through LAIF to a maximum of Seventy-Five Million Dollars (\$75,000,000) per agency.

RESOLUTION

**RESOLUTION OF THE BISHOP AREA WASTEWATER AUTHORITY
BOARD OF DIRECTORS, COUNTY OF INYO, STATE OF
CALIFORNIA, ADOPTING AN INVESTMENT POLICY**

WHEREAS, the California Legislature has provided standards for governing bodies authorized to make investment decisions for local agencies, which are set forth in Sections 16429.1, 53600-53609 and 53630-53686 of the California Government Code (the “Investment Act”); and

WHEREAS, the Investment Act allows local agencies to annually approve a statement of investment policy; and

WHEREAS, the Bishop Area Wastewater Authority (“Authority”) Board of Directors (“Board”) has been presented with an investment policy (the “Investment Policy”) attached hereto as Exhibit “A”; and

WHEREAS, the Board, with the aid of its staff, has reviewed the Investment Policy, which is designed to conform to the requirements of the Investment Act, and wishes to approve the Investment Policy.

NOW, THEREFORE BE IT RESOLVED that the Board of Directors of the Bishop Area Wastewater Authority does hereby find and authorize as follows:

1. The foregoing recitals are found to be true and correct and incorporated as if fully set forth herein.
2. The Board hereby adopts the Investment Policy, a copy of which is attached hereto as Exhibit “A” and by this reference is incorporated herein.
3. This Resolution shall take effect immediately upon its adoption.

PASSED, APPROVED AND ADOPTED THIS 20TH DAY OF OCTOBER, 2020.

CHAIR OF AUTHORITY BOARD OF DIRECTORS

ATTEST:

SECRETARY TO SAID BOARD OF DIRECTORS

Exhibit “A” – Investment Policy

**Exhibit “A”
Investment Policy**

[attached behind this cover page]

BISHOP AREA WASTEWATER AUTHORITY

STAFF REPORT

DATE: October 20, 2020
TO: Board of Directors
FROM: General Counsel
RE: **ADOPT RESOLUTION # _____ TO ADOPT A CONFLICT OF INTEREST CODE PURSUANT TO THE POLITICAL REFORM ACT**

FORM MOTION

It is recommended that the Board of Directors adopt Resolution No. _____ adopting the Conflict of Interest Code of the Bishop Area Wastewater Authority.

BACKGROUND

The Political Reform Act (the “Act”) requires all public agencies to adopt and maintain a Conflict of Interest Code containing the rules for disclosure of personal assets and the prohibition from making or participating in making governmental decisions that may affect any personal assets. A conflict of interest code must specifically designate all agency positions, except for those listed in Gov. Code § 87200, that make or participate in the making of agency decisions which may foreseeably have an effect on any financial interest of that person, and assign specific types of personal assets to be disclosed that may be affected by the exercise of powers and duties of that position. (Gov. Code §§ 87300, 87302.)

Attached is a copy of the proposed Conflict of Interest Code. This Code incorporates Regulation 18730 as the provisions with an Appendix attached declaring officials who manage the investment of public funds, designating all positions that make or participate in making governmental decisions of the Authority or any department, unit or division of the Authority, and establishes disclosure categories to be assigned to each designated position, as required. This is commonly referred to as the FPPC Standard Code.

RECOMMENDATION

It is recommended that the Board of Directors adopt Resolution No. _____ adopting the Conflict of Interest Code of Bishop Area Wastewater Authority and directing that such Code be submitted to the Inyo County Board of Supervisors as the Authority’s code-reviewing body (Gov. Code § 82011) requesting approval of the adopted Code as required under Government Code section 87303.

Attachment: Proposed Conflict of Interest Code.

CONFLICT OF INTEREST CODE

OF THE

**BISHOP AREA WASTEWATER
AUTHORITY**

CONFLICT OF INTEREST CODE OF THE BISHOP AREA WASTEWATER AUTHORITY

(Adopted October 20, 2020)

The Political Reform Act (Gov. Code § 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. § 18730) that contains the terms of a standard conflict of interest code which can be incorporated by reference in an agency's code. After public notice and hearing Section 18730 may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation (attached) and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the **BISHOP AREA WASTEWATER AUTHORITY (the "Authority")**.

All officials and designated positions required to submit a statement of economic interests shall file their statements with the **Administrator** as the Authority's Filing Officer. The **Administrator** shall make and retain a copy of all statements filed by the Board of Directors and Administrator and forward the originals of such statements to the Clerk of the Board of Supervisors of the County of Inyo. The **Administrator** shall retain the original statements filed by all other officials and designated positions and will make all retained statements available for public inspection and reproduction during regular business hours. (Gov. Code § 81008.)

APPENDIX
CONFLICT OF INTEREST CODE
OF THE
BISHOP AREA WASTEWATER AUTHORITY

(Adopted October 20, 2020)

PART “A”

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

Officials who manage public investments, as defined by 2 Cal. Code of Regs. §18700.3(b), are NOT subject to the Authority’s Code but must file disclosure statements under Government Code Section 87200 et seq. [Regs. § 18730(b)(3)]

It has been determined that the positions listed below are Officials who manage public investments¹. These positions are listed here for informational purposes only.

Board of Directors and Alternates

Finance Manager

Investment Consultant

¹ Individuals holding one of the above-listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by § 87200.

DESIGNATED POSITIONS

GOVERNED BY THE CONFLICT OF INTEREST CODE

DESIGNATED POSITIONS' TITLE OR FUNCTION

DISCLOSURE CATEGORIES ASSIGNED

Administrator	2, 3, 4
Controller	4
General Counsel	1, 2
Operator	2, 3, 5

Consultants and New Positions²

² Individuals serving as a consultant as defined in FPPC Reg. 18700.3(a) or in a new position created since this Code was last approved that makes or participates in making decisions must file under the broadest disclosure set forth in this Code subject to the following limitation:

The Administrator may determine that, due to the range of duties or contractual obligations, it is more appropriate to assign a limited disclosure requirement. A clear explanation of the duties and a statement of the extent of the disclosure requirements must be in a written document. (Gov. Code Sec. 82019; FPPC Regulations 18219 and 18734.) The Administrator's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code. (Gov. Code Sec. 81008.)

PART "B"

DISCLOSURE CATEGORIES

The disclosure categories listed below identify the types of economic interests that the designated position must disclose for each disclosure category to which he or she is assigned. ³ "Investment" means financial interest in any business entity (including a consulting business or other independent contracting business) and are reportable if they are either located in, doing business in, planning to do business in, or have done business during the previous two years in the jurisdiction of the Authority.

Category 1: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that are located in, that do business in or own real property within the jurisdiction of the Authority.

Category 2: All interests in real property which is located in whole or in part within, or not more than two (2) miles outside, the boundaries of the Authority, including any leasehold, beneficial or ownership interest or option to acquire property.

Category 3: All investments and business positions in business entities, and sources of income, including gifts, loan and travel payments, that are engaged in land development, construction or the acquisition or sale of real property within the jurisdiction of the Authority.

Category 4: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the Authority.

Category 5: All investments and business positions in business entities, and sources of income, including gifts, loans and travel payments, that provide services, products, materials, machinery, vehicles or equipment of a type purchased or leased by the designated position's department, unit or division.

³ This Conflict of Interest Code does not require the reporting of gifts from outside this agency's jurisdiction if the source does not have some connection with or bearing upon the functions or duties of the position. (Reg. 18730.1)

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18730. Provisions of Conflict of Interest Codes.

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Section 87300 or the amendment of a conflict of interest code within the meaning of Section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Sections 81000, et seq. The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Section 87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (Regulations 18110, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

(2) Section 2. Designated Employees.

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

(3) Section 3. Disclosure Categories.

This code does not establish any disclosure obligation for those designated employees who are also specified in Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their economic interests pursuant to article 2 of chapter 7 of the Political Reform Act, Sections 87200, et seq.

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Section 87200; and

(C) The filing officer is the same for both agencies.¹

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of economic interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those economic interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the economic interests set forth in a designated employee's disclosure categories

are the kinds of economic interests which he or she foreseeably can affect materially through the conduct of his or her office.

(4) Section 4. Statements of Economic Interests: Place of Filing.

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.²

(5) Section 5. Statements of Economic Interests: Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April 1. If a person reports for military service as defined in the Servicemember's Civil Relief Act, the deadline for the annual statement of economic interests is 30 days following his or her return to office, provided the person, or someone authorized to represent the person's interests, notifies the filing officer in writing prior to the applicable filing deadline that he or she is subject to that federal statute and is unable to meet the applicable deadline, and provides the filing officer verification of his or her military status.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

(5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

(1) File a written resignation with the appointing power; and

(2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation he or she did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

(6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements.

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later, or for a board or commission member subject to Section 87302.6, the day after the closing date of the most recent statement filed by the member pursuant to Regulation 18754.

(D) Contents of Leaving Office Statements.

Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

(7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investment and Real Property Disclosure.

When an investment or an interest in real property³ is required to be reported,⁴ the statement shall contain the following:

1. A statement of the nature of the investment or interest;

2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;
4. A statement whether the fair market value of the investment or interest in real property equals or exceeds \$2,000, exceeds \$10,000, exceeds \$100,000, or exceeds \$1,000,000.

(B) Personal Income Disclosure. When personal income is required to be reported,⁵ the statement shall contain:

1. The name and address of each source of income aggregating \$500 or more in value, or \$50 or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was \$1,000 or less, greater than \$1,000, greater than \$10,000, or greater than \$100,000;

3. A description of the consideration, if any, for which the income was received;

4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;

5. In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,⁶ the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;

2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than \$10,000.

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

(8) Section 8. Prohibition on Receipt of Honoraria.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

(B) This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

(C) Subdivisions (a), (b), and (c) of Section 89501 shall apply to the prohibitions in this section.

(D) This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Section 89506.

(8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of \$500.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than \$500 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests.

(B) This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

(C) Subdivisions (e), (f), and (g) of Section 89503 shall apply to the prohibitions in this section.

(8.2) Section 8.2. Loans to Public Officials.

(A) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

(B) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(C) No elected officer of a state or local government agency shall, from the date of his or her election to office through the date that he or she vacates office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected

officer has been elected or over which that elected officer's agency has direction and control.

This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(D) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(E) This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office.

2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans from a person which, in the aggregate, do not exceed \$500 at any given time.

4. Loans made, or offered in writing, before January 1, 1998.

(8.3) Section 8.3. Loan Terms.

(A) Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of his or her election to office through the date he or she vacates office, receive a personal loan of \$500 or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(B) This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.

2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

(8.4) Section 8.4. Personal Loans.

(A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.

2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:

a. The date the loan was made.

b. The date the last payment of \$100 or more was made on the loan.

c. The date upon which the debtor has made payments on the loan aggregating to less than \$250 during the previous 12 months.

(B) This section shall not apply to the following types of loans:

1. A loan made to the campaign committee of an elected officer or a candidate for elective office.

2. A loan that would otherwise not be a gift as defined in this title.

3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.

4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action.

Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.

5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

(9) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth \$2,000 or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth \$2,000 or more;

(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating \$500 or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$500 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(9.3) Section 9.3. Legally Required Participation.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The

fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

(9.5) Section 9.5. Disqualification of State Officers and Employees.

In addition to the general disqualification provisions of section 9, no state administrative official shall make, participate in making, or use his or her official position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of his or her immediate family has, within 12 months prior to the time when the official action is to be taken:

(A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or

(B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value \$1,000 or more.

(10) Section 10. Disclosure of Disqualifying Interest.

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

(11) Section 11. Assistance of the Commission and Counsel.

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Section 83114 and Regulations 18329 and 18329.5 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(12) Section 12. Violations.

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Sections 81000-91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Section 87100 or 87450 has occurred may be set aside as void pursuant to Section 91003.

¹ Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Section 81004.

² See Section 81010 and Regulation 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

³ For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

⁴ Investments and interests in real property which have a fair market value of less than \$2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

⁵ A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

⁶ Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87103(e), 87300-87302, 89501, 89502 and 89503, Government Code.

HISTORY

1. New section filed 4-2-80 as an emergency; effective upon filing (Register 80, No. 14).
Certificate of Compliance included.
2. Editorial correction (Register 80, No. 29).
3. Amendment of subsection (b) filed 1-9-81; effective thirtieth day thereafter (Register 81, No. 2).
4. Amendment of subsection (b)(7)(B)1. filed 1-26-83; effective thirtieth day thereafter (Register 83, No. 5).
5. Amendment of subsection (b)(7)(A) filed 11-10-83; effective thirtieth day thereafter (Register 83, No. 46).
6. Amendment filed 4-13-87; operative 5-13-87 (Register 87, No. 16).
7. Amendment of subsection (b) filed 10-21-88; operative 11-20-88 (Register 88, No. 46).
8. Amendment of subsections (b)(8)(A) and (b)(8)(B) and numerous editorial changes filed 8-28-90; operative 9-27-90 (Reg. 90, No. 42).

9. Amendment of subsections (b)(3), (b)(8) and renumbering of following subsections and amendment of Note filed 8-7-92; operative 9-7-92 (Register 92, No. 32).
10. Amendment of subsection (b)(5.5) and new subsections (b)(5.5)(A)-(A)(2) filed 2-4-93; operative 2-4-93 (Register 93, No. 6).
11. Change without regulatory effect adopting Conflict of Interest Code for California Mental Health Planning Council filed 11-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 48). Approved by Fair Political Practices Commission 9-21-93.
12. Change without regulatory effect redesignating Conflict of Interest Code for California Mental Health Planning Council as chapter 62, section 55100 filed 1-4-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 1).
13. Editorial correction adding History 11 and 12 and deleting duplicate section number (Register 94, No. 17).
14. Amendment of subsection (b)(8), designation of subsection (b)(8)(A), new subsection (b)(8)(B), and amendment of subsections (b)(8.1)-(b)(8.1)(B), (b)(9)(E) and Note filed 3-14-95; operative 3-14-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
15. Editorial correction inserting inadvertently omitted language in footnote 4 (Register 96, No. 13).
16. Amendment of subsections (b)(8)(A)-(B) and (b)(8.1)(A), repealer of subsection (b)(8.1)(B), and amendment of subsection (b)(12) filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).
17. Amendment of subsections (b)(8.1) and (9)(E) filed 4-9-97; operative 4-9-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 15).

18. Amendment of subsections (b)(7)(B)5., new subsections (b)(8.2)-(b)(8.4)(C) and amendment of Note filed 8-24-98; operative 8-24-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 35).

19. Editorial correction of subsection (a) (Register 98, No. 47).

20. Amendment of subsections (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 5-11-99; operative 5-11-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 20).

21. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 12-6-2000; operative 1-1-2001 pursuant to the 1974 version of Government Code section 11380.2 and Title 2, California Code of Regulations, section 18312(d) and (e) (Register 2000, No. 49).

22. Amendment of subsections (b)(3) and (b)(10) filed 1-10-2001; operative 2-1-2001.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 2).

23. Amendment of subsections (b)(7)(A)4., (b)(7)(B)1.-2., (b)(8.2)(E)3., (b)(9)(A)-(C) and footnote 4. filed 2-13-2001. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 7).

24. Amendment of subsections (b)(8.1)-(b)(8.1)(A) filed 1-16-2003; operative 1-1-2003.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District,

nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2003, No. 3).

25. Editorial correction of History 24 (Register 2003, No. 12).

26. Editorial correction removing extraneous phrase in subsection (b)(9.5)(B) (Register 2004, No. 33).

27. Amendment of subsections (b)(2)-(3), (b)(3)(C), (b)(6)(C), (b)(8.1)-(b)(8.1)(A), (b)(9)(E) and (b)(11)-(12) filed 1-4-2005; operative 1-1-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 1).

28. Amendment of subsection (b)(7)(A)4. filed 10-11-2005; operative 11-10-2005 (Register 2005, No. 41).

29. Amendment of subsections (a), (b)(1), (b)(3), (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 12-18-2006; operative 1-1-2007. Submitted to OAL pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2006, No. 51).

30. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 10-31-2008; operative 11-30-2008. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2008, No. 44).

31. Amendment of section heading and section filed 11-15-2010; operative 12-15-2010. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of*

Administrative Law, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2010, No. 47).

32. Amendment of section heading and subsections (a)-(b)(1), (b)(3)-(4), (b)(5)(C), (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) and amendment of footnote 1 filed 1-8-2013; operative 2-7-2013.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2013, No. 2).

33. Amendment of subsections (b)(8.1)-(b)(8.1)(A), (b)(8.2)(E)3. and (b)(9)(E) filed 12-15-2014; operative 1-1-2015 pursuant to section 18312(e)(1)(A), title 2, California Code of Regulations.

Submitted to OAL for filing and printing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2014, No. 51).

34. Redesignation of portions of subsection (b)(8)(A) as new subsections (b)(8)(B)-(D), amendment of subsections (b)(8.1)-(b)(8.1)(A), redesignation of portions of subsection (b)(8.1)(A) as new subsections (b)(8.1)(B)-(C) and amendment of subsection (b)(9)(E) filed 12-1-2016; operative 12-31-2016 pursuant to Cal. Code Regs. tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision,

April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2016, No. 49).

35. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 12-12-2018; operative 1-11-2019 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing and printing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2018, No. 50).

NOTICE OF INTENTION TO ADOPT THE CONFLICT OF INTEREST CODE OF THE BISHOP AREA WASTEWATER AUTHORITY

NOTICE IS HEREBY GIVEN that the Board of Directors of the Bishop Area Wastewater Authority (the "Authority") intends to adopt a Conflict of Interest Code (the "Code") pursuant to Government Code section 87306.

The Code designates those employees, members, officers, and consultants who make or participate in the making of decisions and are subject to the disclosure requirements of the Authority's Code. The Authority's proposed Code will formally adopt the Standard Code of the Fair Political Practices Commission, designate positions that that make or participate in the making of governmental decisions, establish disclosure categories which are assigned to each position based on their official duties, and declare officials who manage public investments.

The proposed Code will be considered by the Board of Directors on October 20, 2020, at 8:00 a.m. at the Bishop Council Chambers at 301 West Line Street, Bishop, California. Any interested person may be present and comment at the public meeting or may submit written comments concerning the proposed amendment.

The proposed Conflict of Interest Code may be reviewed at, and copies obtained from, the office of the Administrator noted below.

Any comments or inquiries should be directed to the attention of Deston Dishion, Administrator, P.O. Box 1236, Bishop, CA 93515; (760) 873-8458x30; DDishion@cityofbishop.com. Written comments must be submitted no later than October 20, 2020, at 8:00 a.m.

RESOLUTION NO. _____

**RESOLUTION OF THE BOARD OF DIRECTORS OF THE
BISHOP AREA WASTEWATER AUTHORITY TO ADOPT
A CONFLICT OF INTEREST CODE PURSUANT TO THE
POLITICAL REFORM ACT OF 1974**

WHEREAS, the State of California enacted the Political Reform Act of 1974, Government Code section 81000 et seq. (the “Act”), which contains provisions relating to conflicts of interest which potentially affect all officers, employees and consultants of the Bishop Area Wastewater Authority (the “Authority”) and requires all public agencies to adopt and promulgate a conflict of interest code; and

WHEREAS, the potential penalties for violation of the provisions of the Act are substantial and may include criminal and civil liability, as well as equitable relief which could result in the Authority being restrained or prevented from acting in cases where the provisions of the Act may have been violated; and

WHEREAS, notice of the time and place of a public meeting on, and of consideration by the Board of Directors of, the proposed Conflict of Interest Code was provided each designated position and publicly posted for review at the offices of the Authority; and

WHEREAS, a public meeting was held upon the proposed Conflict of Interest Code at a regular meeting of the Board of Directors October 20, 2020, at which all present were given an opportunity to be heard on the proposed Code.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Bishop Area Wastewater Authority that the Board of Directors does hereby adopt the proposed Conflict of Interest Code, a copy of which is attached hereto and shall be on file with the Administrator and available to the public for inspection and copying during regular business hours;

BE IT FURTHER RESOLVED that the said Conflict of Interest Code shall be submitted to the Board of Supervisors of the County of Inyo for approval and said

Code shall become effective 30 days after the Board of Supervisors approves the proposed Conflict of Interest Code as submitted.

APPROVED AND ADOPTED this 20th day of October, 2020.

Chair, Board of Directors
Bishop Area Wastewater Authority

ATTEST:

Secretary, Board of Directors
Bishop Area Wastewater Authority

**Bishop Area
Wastewater
Authority**

Agenda Item: _____
Date of Meeting: October 20, 2020

STAFF REPORT

To: Bishop Area Wastewater Authority Board
From: General Counsel
Subject: BAWA Bylaws and Policy Manual
Prepared on: October 15, 2020
Attachments: Proposed Resolution No. _____
BAWA Bylaw and Policy Manual
Approved By: _____
Deston Dishion, Administrator

Background/History:

Pursuant to BAWA's joint powers agreement, BAWA is governed by the Community Services District laws. (Gov. Code, §61000 et seq.) Within the Community Services District laws, Government Code section 61045(f) states that the Board of Directors shall adopt rules or bylaws for its proceedings. Furthermore, Government Code section 61045(g) states that the Board of Directors shall adopt policies for the operation of the district (in this case, BAWA).

Analysis/Discussion:

Attached to the Resolution is a Bylaws and Policy Manual modeled from Eastern Sierra Community Services District policy manual. We did not include all of Eastern Sierra CSD's policies, but just ones we felt might be applicable for BAWA at its beginning. It is quite possible that staff may find the need to adopt additional bylaws or policies in the future. If that is the case, Staff will update the manual at that time. This proposed manual includes policies on meeting dates and location, distribution of agenda and minutes, expense reimbursements and director compensation, procurement policy, purchase orders, records retention and destruction, capital assets and purchasing cards.

Budget Impacts:

None.

Legal Review:

BAWA Attorney Simmons has reviewed this item and finds that the recommended action complies with the law.

Recommendation:

It is recommended that the Board of Directors adopt Resolution No. _____ adopting the BAWA Bylaws and Policy Manual

BISHOP AREA WASTEWATER AUTHORITY

BYLAWS / POLICY MANUAL

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POLICY 1
PURPOSE AND GENERAL PROVISIONS

1.0 The Board of Directors of the Bishop Area Wastewater Authority (“BAWA”) finds and determines that the administrative affairs of BAWA would be handled more expeditiously and efficiently by prescribing these bylaws and administrative policies, or the conduct of administrative services and to facilitate effective service to the public. (“BAWA Bylaws and Policy Manual”)

1.1 The objectives of this BAWA Bylaws and Policy Manual are to insure efficient, economical conduct of the BAWA business and service.

1.2 If any section, subsection, sentence, clause or phrase of these policies are found to be illegal, such findings shall not affect the validity of the remaining portion of this BAWA Bylaws and Policy Manual.

POLICY 2
POLICY REVIEW

2.0 The BAWA Bylaws and Policy Manual will be reviewed at least once each fiscal year, or at any time that the Board of Directors deem necessary.

2.1 Modifications to the BAWA Bylaws and Policy Manual may be made by the Board of Directors by majority vote and when so passed shall be deemed to be a part thereof.

POLICY 3
MEETING DATE AND LOCATION

3.0 The regular meeting date for the BAWA Board of Directors meeting will be the third Tuesday of each quarter at 8:00 a.m. in the offices of the City of Bishop City Council Chambers.

3.1 The date and time may be changed by Board action.

3.2 This policy was adopted during the 2020 COVID-19 pandemic and thus the meeting location is subject to change pursuant to the Governor's Executive Orders.

3.3 Board meetings and standing committees will be subject to the Ralph M. Brown Act, Government Code section 54950 *et seq.*

POLICY 4
DISTRIBUTION OF AGENDA AND MINUTES

4.0 The agendas for the regular meetings of the Board of Directors will be distributed to each Board Member the Friday before the regular meeting and posted on the door of the City of Bishop City Council Chambers; provided however, in no event shall agendas for regular meetings be posted less than 72 hours before the meeting time.

4.1 The agendas for a special meeting of the Board of Directors will be distributed at least 24 hours before the special meeting.

4.2 The minutes of a regular or special meeting normally will be distributed to each Board Member for approval in the agenda package for the subsequent Board meeting.

4.3 All other distribution will be upon request, on a one time basis, at ten (10) cents per page or made available on the BAWA website for download.

POLICY 5
EXPENSE REIMBURSEMENT AND DIRECTOR COMPENSATION

Part A.
Expense Reimbursement and Director Compensation

5.0 **Purpose.** The purpose of this policy is to prescribe the manner in which BAWA employees and directors may be reimbursed for expenses incurred relating to BAWA business, and how directors may be compensated for their service. Bishop Area Wastewater Authority shall adhere to Government Code Sections 53232 through 53232.4 when dealing with issues of director compensation and reimbursement.

5.1 **Scope.** This policy applies to all employees and members of the Board of Directors (“Directors”), and its provisions regarding expense reimbursement are intended to result in no personal gain or loss to an employee or director.

5.2 **Implementation.** Whenever BAWA employees or Directors desire to be reimbursed for out-of-pocket expenses for item(s) or service(s) appropriately relating to BAWA business, they shall submit their requests on a reimbursement form approved by the Administrator. Included on the reimbursement form will be an explanation of BAWA-related purpose for the expenditure(s), and receipts evidencing each expense shall be attached.

(a) The Finance Officer or the Administrator will review and approve reimbursement requests. Reimbursement requests by the Finance Officer will be reviewed and approved by the Administrator. Reimbursement requests by the Administrator will be reviewed and approved by the Finance Officer.

5.3 **Director Compensation.** Directors shall each receive a monthly “Director’s Fee” in accordance with Ordinance No. 19-01, which shall define a compensable day of service and the amount of compensation for each such day.

5.4 **Expense Reimbursement.** BAWA employees and directors are eligible to receive reimbursements for travel, meals, lodging, and other actual and necessary expenses incurred in the performance of official duties on behalf of BAWA. Reimbursement shall be in the amount corresponding to the rates set by the latest edition of Internal Revenue Service (IRS) Publication 463 or its successor publication(s).

(a) Any and all expenses that do not fall within the Board's adopted expense reimbursement policy or IRS Publication 463 rates are required to be approved by the Board in a public meeting prior to the expense(s) being incurred.

(1) Failure to obtain prior approval from the Board in accordance with Section 5.4(a) of this policy shall render the unapproved expense(s) ineligible for reimbursement.

(b) If lodging is in connection with conferences or organized educational activities reimbursable under this policy, lodging costs shall not exceed the maximum group rate published by the conference or activity sponsor, provided that the group rate is available to the BAWA director at the time of booking. If the group rate is not available at the time of booking, directors shall be reimbursed in an amount equivalent to comparable lodging at the highest of government, group, or IRS rates.

(c) Directors must use government and group rates offered by a provider of transportation or lodging services for travel and lodging when available.

(d) BAWA shall provide expense reimbursement report forms to employees and directors who incur reimbursable expenses on behalf of BAWA to document that their expenses adhere to this policy.

(1) Receipts are required to be submitted in conjunction with all items listed on the expense report form. Expenses without receipts will not be reimbursed.

(2) Expense reports shall be submitted within a reasonable time, but not more than 30 days, after incurring the expense.

(3) Before reimbursement may issue, Directors who attended meetings at the expense of BAWA are required to provide brief reports on the meetings they attended at the next regular Board meeting.

(4) It is against the law to falsify expense reports. Penalties for misuse of public resources or falsifying expense reports in violation of BAWA's expense reporting policy may include, but are not limited to, the following:

(i) The loss of reimbursement privileges;

(ii) Restitution to BAWA;

(iii) Civil penalties for the misuse of public resources pursuant to Government Code Section 8314; and

(iv) Prosecution for misuse of public resources, pursuant to Section 424 of the Penal Code, punishable by imprisonment for two, three, or four years and disqualification from holding state office.

Part B.
Director Training, Education, and Conferences

5.6 Directors are encouraged to attend educational conferences and professional meetings when the purposes of such activities are to improve BAWA operations. Attendance at such educational conferences and professional meetings are considered a part of a Director's performance of his or her official duties for BAWA. Hence, there is no limit as to the number of Directors attending a particular conference or seminar when it is apparent that their attendance is beneficial to BAWA.

(a) "Junkets" (a tour or journey for pleasure at public expense), however, will not be permitted.

5.7 It is the policy of BAWA to encourage Board development and excellence of performance by reimbursing expenses incurred from registration fees, travel, lodging and meals while attending training, educational courses, professional organization meetings directly related to BAWA business, and local, state and national conferences attended in the interests of BAWA. Cash advances or use of BAWA credit cards for these purposes is not permitted. All reimbursement of actual and necessary expenses incurred by Directors shall be issued pursuant to Section 5.4 of this policy.

(a) The Administrator is responsible for making arrangements for Directors for conference and registration expenses, and for compensation and reimbursement pursuant to Part A of this policy. All expenses for which reimbursement is requested by Directors, or which are billed to BAWA by Directors, shall be submitted to the Administrator, together with receipts.

(b) To qualify for reimbursement, attendance of seminars, workshops, courses, professional organization meetings, and conferences by Directors shall be approved by the Board before a Director incurs costs incidental to attendance.

5.8 All Directors shall receive two hours of training in general ethics principles and ethics laws, as defined by Government Code Section 53234, relevant to their public service within one year of election or appointment to the Board, and at least once every two years thereafter, pursuant to Government Code Sections 53234 through 53235.2.

(a) This ethics training requirement shall also apply to all staff members that the Board designates and to members of all commissions, committees and other bodies that are subject to the Ralph M. Brown Open Meeting Act.

(b) Any entity that develops curricula to satisfy this ethics training requirement must have first consulted with the California Attorney General and the Fair Political Practices Commission regarding the sufficiency and accuracy of the course content. Failing to do so will result in the Director receiving no credit for attending non-compliant ethics training.

(c) Directors shall obtain proof of participation from the ethics training provider after completing the training.

(1) BAWA staff shall maintain records indicating both the dates that Directors completed the ethics training and the name of the entity that provided the training. These records shall be maintained for at least five years after Directors complete the training, and are public records subject to disclosure under the California Public Records Act.

(d) At least once each year, BAWA staff shall provide the Board with information on available training that meets the ethics training requirements of this policy.

(e) Directors may meet their ethics training requirements by completing training courses or sets of self-study materials with tests offered by BAWA, a local agency, or an association of local agencies. These courses may be taken at home, in person, or online.

(f) Any Director who serves another local agency is only required to meet the ethics training requirements of this policy once every two years, regardless of the number of local agencies the Director serves.

5.9 A Director shall be compensated for attending training on harassment awareness, and be reimbursed for all expenses relating to such training pursuant to Section 5.7.

5.10 A Director shall not attend a conference or training event for which there is an expense to BAWA if it occurs after they have announced their pending resignation, or if it occurs after an election in which it has been determined that they will not retain their seat on the Board. A Director shall not attend a conference or training event in his or her official capacity when it is apparent that there is no significant benefit to BAWA.

5.11 Upon returning from seminars, workshops, conferences, or similar events subject to reimbursement under this policy, Directors will either prepare a written report for distribution to the Board, or make a verbal report during the next regular meeting of the Board. Said report shall detail what was learned at the session(s) that will be of benefit to BAWA. Materials from the session(s) may be delivered to the BAWA office to be included in the BAWA library for the future use of other Directors and staff.

POLICY 6
PROCUREMENT POLICY

6.0 BAWA will competitively bid all contracts for materials and supplies used for construction projects (either constructed by BAWA's own forces, or constructed under contract) when the estimated amount of the materials and supplies exceeds \$25,000, except in an emergency.

6.1 Bidding procedures shall follow requirements as outlined in the Community Services District Law (SB 135).

POLICY 7
PURCHASE ORDERS

7.0 A purchase order must be obtained and is required for any purchase that amounts to over \$500.

POLICY 8
RECORDS RETENTION AND DESTRUCTION POLICY

I. PURPOSE

The purpose of this policy is to provide guidelines to staff regarding the retention of records of BAWA; provide for the identification, maintenance, and safeguarding of BAWA records and the destruction of obsolete records in the normal course of business; ensure prompt and accurate retrieval of records; and ensure compliance with legal and regulatory requirements.

II. PROCEDURE

- A.** The department head or BAWA staff completes and signs a “Request for Destruction of Obsolete Records” form, listing the date and description of each document to be destroyed. A sample form is attached to this policy as Attachment “A”. The department head or BAWA staff submits the form to the Administrator.
- B.** The Administrator checks the documents listed on the submitted form to confirm that each document is: (1) not required to be permanently retained, or (2) has been retained for the legally required period of time. The Administrator also confirms that any applicable reproduction requirements (i.e., imaging, etc.) for each document are complete.
- C.** The Administrator reviews and signs the form.
- D.** The Administrator oversees the destruction of the obsolete documents, indicates the method of destruction on the form, and signs the form.
- E.** The Administrator will retain all original signed forms requesting destruction of obsolete records for a minimum period of two (2) years.
- F.** The Administrator will retain a permanent record, such as a log or copies of certificates of destruction, in whatever format he/she determines to be convenient for the purpose, to document the destruction of obsolete records of BAWA.

III. GENERAL GUIDELINES

- A.** The Administrator shall be responsible for the administration of this policy and shall assist all BAWA personnel to comply with the provisions of this policy and with the Records Retention Schedule, set forth in Attachment “B.”
- B.** The following general guidelines apply to all BAWA records.
 - 1. Pursuant to the resolution adopted by the Board of Directors, except where a record is expressly required to be preserved according to State law, BAWA may destroy any original obsolete document without retaining a copy of the document as long as the retention and destruction of the

document complies with the retention schedule as set forth in this policy (Gov. Code § 60201.)

2. In addition to the retention periods required under this policy, BAWA shall retain original administrative, legal, fiscal and/or historical records with continued value (i.e., records for long-term transactions and/or special projects) until all matters pertaining to such records are completely resolved or the time for appeals has expired. (Gov. Code § 14755, subd. (a); Gov. Code 34090.)
3. Pursuant to Government Code section 60201, BAWA shall not destroy any of the following records:
 - (a) Records relating to the formation, change of organization, or reorganization of BAWA;
 - (b) Ordinances and resolutions, unless they have been repealed or have become invalid or otherwise unenforceable for five years;
 - (c) Minutes of any meeting of BAWA;
 - (d) Records relating to any pending claim, litigation, any settlement or other disposition of litigation within the past two years;
 - (e) Records that are the subject of any pending request for records under the California Public Records Act, whether or not the record is exempt from disclosure, until the request has been granted or two (2) years after the request has been denied by BAWA;
 - (f) Records relating to any pending construction that BAWA has not accepted or for which a stop notice claim may be legally presented;
 - (g) Records relating to any nondischarged debt of BAWA;
 - (h) Records relating to the title to real property in which BAWA has an interest;
 - (i) Records relating to any nondischarged contract to which BAWA is a party;
 - (j) Records that have not fulfilled the administrative, fiscal, or legal purpose for which they were created or received;
 - (k) Unaccepted bids or proposals, which are less than two (2) years old, for the construction or installation of any building, structure or other public work;

- (l) Records less than seven (7) years old that specify the amount of compensation or expense reimbursement paid to BAWA employees, officers, or independent contractors

IV. SPECIFIC GUIDELINES

A. Accounting Records

1. Accounting Records include, but are not limited to, the following:

- (a) Source Documents

- Invoices
- Warrants
- Vouchers
- Requisitions/Purchase Orders (attached to invoices)
- Cash Receipts
- Claims (attached to warrants in place of invoices)
- Bank Statements
- Bank Deposits
- Checks
- Bills
- Various accounting authorizations taken from BAWA minutes, resolutions or contracts

- (b) Journals

- Cash Receipts
- Accounts Receivable or Payable Register
- Check or Warrant Register
- General Journal
- Payroll Journal

- (c) Ledgers

- Expenditure
- Revenue
- Accounts Payable or Receivable Ledger
- Assets/Depreciation
- Warrants payable
- Construction
- General ledger

- (d) Trial Balance

- (e) Adjusting Entries

- (f) Statements (Interim or Certified - Individual or All Fund)

- Balance Sheet
- Analysis of Changes in Available Fund Balance
- Cash Receipts and Disbursements
- Inventory of Fixed Assets (Purchasing)

(g) Journal Entries

(h) Reversing Entries

(i) Payroll and personnel records include but are not limited to the following:

- Accident reports, injury claims and settlements
- Applications, changes or terminations of employees
- Earnings records and summaries
- Fidelity bonds
- Garnishments
- Insurance records of employees
- Job descriptions
- Medical histories
- Retirements
- Time cards

(j) Other

- Inventory Records (Purchasing)
- Capital Asset Records (Purchasing)
- Depreciation Schedule
- Cost Accounting Records

2. General ledgers should be retained a minimum of four (4) years after completion of any annual audit. (Code of Civ. Pro. § 337.) Published articles show retention periods of four (4) to seven (7) years as typical. The Secretary of State recommends that general ledgers be permanently retained. (Sec. of State Local Gov't. Records Mgmt. Guidelines; Gov. Code § 34090.)
3. In general, BAWA should retain original source documents that are detailed in a register, journal, ledger or statement until audited plus four (4) years. Certain source documents may be retained for a shorter period of time. Refer to the Records Retention Schedule for specific accounting documents.
4. At any time, BAWA may destroy rough drafts, notes, working papers (except for audits) that are not retained by BAWA in the ordinary course of business, including temporary or transitory documents used only for controlling the flow of work (i.e. "Post-it" notes).

5. In addition to any required legal retention period, BAWA shall not authorize the destruction of any record subject to audit until it has been determined that the audit has been performed. (Gov. Code § 14755, subd. (b); Gov. Code § 34090.)

B. Long-Term Debt Records

1. BAWA may destroy paid bonds, warrant certificates and interest coupons after ten (10) years.
2. BAWA may not destroy any documents relating to any nondischarged debt. (Gov. Code § 60201, subd. (d)(7).)

C. BAWA Records

1. BAWA shall retain original records of the minutes of meetings of the Board of Directors indefinitely. (Gov. Code §§ 60201; 34090.)
2. BAWA shall retain original resolutions adopted by the Board of Directors indefinitely. (Gov. Code § 60201.)

D. Statements of Economic Interest (SEI) [Form 700] Filed Pursuant to the Political Reform Act.

1. Filing officers shall retain copies of Statements of Economic Interest (SEI) [Form 700] of elected officials for four (4) years (originals are forwarded to the California Fair Political Practices Commission (FPPC)). The officer does not have to keep more than one copy of a statement. After two (2) years, the copies may be imaged and stored electronically. (Gov. Code § 81009 (f), (g).)
2. Filing officers shall retain originals of Statements of Economic Interest (SEI) [Form 700] of designated employees for seven (7) years. After two (2) years, the originals may be imaged and stored electronically. (Gov. Code § 81009 (e), (g).)

E. Contracts

1. BAWA shall retain original contracts for four (4) years after the end of the contracts. (Code of Civ. Proc. § 337.)
2. BAWA shall retain contracts with any person or entity who develops real property or furnishes the design, specifications, surveying, planning, supervision, testing, or observation of construction or improvement to real property for ten (10) years after the completion of the construction or improvement. (Code of Civ. Proc. § 337.15.)

F. Property Records.

BAWA shall retain original property records, such as title documents, indefinitely, or until the property is transferred or otherwise no longer owned by BAWA. (Gov. Code §§ 34090, 60201.)

G. Payroll and Personnel Records.

1. Payroll and personnel records include, but are not limited to, the following:
 - (a) Accident reports, injury claims and settlements
 - (b) Medical histories
 - (c) Injury frequency charts
 - (d) Applications, changes and terminations of employees
 - (e) Insurance records of employees
 - (f) Time cards
 - (g) Job descriptions
 - (h) Performance or rating documents
 - (i) Earning records and summaries

Records specifying amounts of compensation or expense reimbursement paid to BAWA employees, officers, or independent contractors must be retained for seven (7) years after date of payment. (Gov. Code § 60201)

2. BAWA shall retain personnel files for three (3) years after an individual's employment terminates. (29 CFR 1627.3.)
3. BAWA shall retain medical records of employees for thirty (30) years beyond the length of employment. Medical records include records made or maintained by a physician, nurse, or other health care personnel or technician pertaining to employees exposed to toxic substances or harmful physical agents. Medical records do NOT include first aid records for one-time treatment made on-site by a non-physician or observation of minor scratches, cuts, burns, splinters, etc, which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job. For employees who are employed by BAWA for less than one year, BAWA does not need to retain the employee's medical records if BAWA provides the employee with such records upon termination of employment. (29 CFR 1910.1020; 8 Cal. Code Regs. § 3204.)

4. BAWA may destroy personnel fidelity bonds two (2) years after termination. Wage garnishments must be retained while active until garnishment is satisfied, then retain until audited plus four (4) years.
5. BAWA shall retain payroll records containing the name, address, date of birth, sex, job classification, hours worked, and regular and overtime wages for each employee for three (3) years beyond the length of employment and seven (7) years from date of payment. (29 C.F.R. Part 516.5; Labor Code §§ 1174, 1197.5; Gov. Code § 60201.) Payroll registers should be retained for a minimum of seven (7) years from date of payment. Permanent retention of payroll registers is recommended in the Secretary of State Local Government Records Management Guidelines.
6. BAWA shall retain basic time cards or time sheets, on which are entered daily starting and stopping time of individual employees, for a minimum of three (3) years. The Secretary of State guidelines recommends retaining such documents for six (6) years. (29 C.F.R. Part 516.6; Labor Code § 1174; Sec. of State Local Gov't. Records Mgmt. Guidelines.)
7. BAWA shall retain employment applications and employment referral records and files for two (2) years after such records or files are created. (Gov. Code §12946; 29 C.F.R. 1627.3.)
8. BAWA shall retain records regarding the race, sex, and national origin of each applicant and for the job for which such applicant applied for two (2) years from the date of the making of the record or the date of the personnel action involved, whichever occurs later. BAWA may either retain the original documents used to identify applicants, or keep statistical summaries of the collected information. (2 Cal. Code Regs. §7287.0.)

H. Exposure/Safety Records and Material Safety Data Sheets (MSDS).

1. BAWA shall retain employee exposure records and exposure assessment records for at least thirty (30) years. Such records should reveal the identity of the toxic substance or harmful physical agent and where and when such substance or agent was used. (8 Cal. Code Regs. § 3204.)
2. BAWA may destroy the material safety data sheet (MSDS) for a hazardous substance after BAWA stops using the hazardous substance provided it keeps a record of the substance (chemical name if known) and when and where it was used for thirty (30) years (8 Cal. Code Regs. § 3204(d)(1)(B)(2).)

I. Video Monitoring, Telephone and Radio Communications; Other Video and Audio Recordings

1. BAWA shall retain recordings of routine video monitoring (e.g., building security taping systems) for at least one (1) year. After the one year

retention period, BAWA may destroy the video recording upon approval by BAWA. (Gov. Code §§ 34090.6, 53160.)

2. Upon authorization of BAWA, recordings of telephone and radio communications maintained by BAWA may be destroyed after 100 days. (Gov. Code §§ 34090.6, 53160.)
3. If BAWA keeps another record, such as written minutes, of an event that is recorded on video (other than Board of Directors meetings), BAWA must keep the video recording of the event for at least 90 days after the occurrence of the event. After 90 days, the video recording may be destroyed or erased, upon approval by BAWA. (Gov. Code §§ 34090.7; 53161.)
4. If BAWA makes or directs the making of recordings of Board of Directors meetings, such as audio or video recordings, for whatever purpose, BAWA must keep the recordings for at least thirty (30) days after the meeting date. (Gov. Code § 54953.5, subd. (b).)
5. Other audio or video recordings which are not related to the conduct of the public's business (e.g., educational or promotional videos) are not considered to be official BAWA records and may be destroyed after they are no longer required, as provided in the resolution adopting this policy. (Gov. Code §§ 6252, subd. (e); 60201.)

V. RECORDS RETENTION SCHEDULE

The "Records Retention Schedule" is attached to this policy as Attachment "B" and is incorporated herein by reference. This policy and the Records Retention Schedule comply with the records retention guidelines provided by the California Secretary of State and may be updated from time to time, as provided in the resolution adopting this policy.

ATTACHMENT "A"
REQUEST FOR DESTRUCTION OF OBSOLETE RECORDS

[Attached]

BISHOP AREA WASTEWATER AUTHORITY

To: Administrator

From: _____
Employee Name Title

Subject: Request for Destruction of Obsolete Records

I am requesting approval to destroy the obsolete records listed below.

DATE OF RECORD	DESCRIPTION OF RECORD

APPROVED

Administrator Date

The obsolete records described above were destroyed under my supervision using the following method: Shredding Burning Other (specify method)

I certify that such destruction meets the requirements of the Records Retention and Destruction Policy of the Bishop Area Wastewater Authority and all applicable requirements of State and federal law.

Administrator Date of Records Destruction

**ATTACHMENT “B”
RECORDS RETENTION SCHEDULE**

[Attached]

RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

Destruction of any record must be authorized by the legislative body. (Gov. Code §§ 60200 - 60204.

Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Accident/Illness Reports	Administration	Exempt from public disclosure; For Employee Medical Records & Employee Exposure Records regarding exposure to toxic substances or harmful physical agents --includes Material Safety Data Sheets (MSDS) Does NOT include: records of health insurance claims maintained separate from employer's records; first aid records of one-time treatments for minor injuries; records of employees who worked less than one (1) year if records are given to employee upon termination	GC 6254(c) 8 CCR 3204(d)(1)(A)(B)	Length of employment plus 30 years
Accidents/Damage to District Property	Administration	Risk management administration	CCP 337.15	10 years

Legal Authorities Abbreviation

CCP	Code of Civil Procedure (California)	GC	Government Code (California)	LC	Labor Code (California)
CCR	California Code of Regulations	H&S	Health & Safety Code	PC	Penal Code (California)
CFR	Code of Federal Regulations	R&TC	Revenue & Taxation Code (California)		
EC	Elections Code (California)	USC	United States Code		

RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Accounting Records – General Ledger	Finance	General Ledger	CCP 337 Sec. of State Local Gov't. Records Retention Guidelines	Until audited + 4 years Published articles show 4 – 7 years retention as typical. Sec. of State Guidelines recommends permanent retention.
Accounting Records – - Permanent Books of Accounts	Finance	Records showing items of gross income, receipts and disbursement (including inventories, per IRS regulations)	26 CFR 1.6001-1(c) & (e)	Permanent

Legal Authorities Abbreviation

CCP	Code of Civil Procedure (California)	GC	Government Code (California)	LC	Labor Code (California)
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CFR	Code of Federal Regulations	R&TC	Revenue & Taxation Code (California)		
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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Accounts Payable	Finance	Journals, statements, asset inventories, account postings with supporting documents, vouchers; investments, invoices and back-up documents, purchase orders, , petty cash, postage, PERS reports, check requests, etc.	CCP 337 26 CFR 31.6001-1(e)(2); Sec. of State Local Gov't Records Mgmt. Guidelines recommendation	Until audited + 4 years
		Expense reimbursements to employees & officers; travel expense reimbursements or travel compensation	GC 60201(d)(12)	7 years after date of payment
Accounts Receivable	Finance	Receipts for deposited checks, coins, currency; checks received, reports, investments, receipt books, receipts, cash register tapes, payments for fees, permits, etc.	CCP 337 26 CFR 31.6001-1(e)(2); Sec. of State Local Gov't Records Mgmt. Guidelines recommendation	Until audited + 4 years

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Affidavits of Publication / Posting	Administration	Legal notices for public hearings, publication of ordinances, etc.	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	2 years
Agency Report of Consultants (FPPC Form 805)	Administration	Identifies consultants hired by the District who must file Form 700	2 CCR 18734; GC 81009(e)	7 years
Agency Report – Events and Ticket/Pass Distribution (FPPC Form 802)	Administration	Report of tickets/passes; identifies persons who received tickets/passes and describes the public purpose for the distribution	GC 81009(e)	Originals - 7 years; Copy must be posted on agency website

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Agency Report of Public Official Appointments (FPPC Form 806)	Administration	Report of additional compensation received by agency officials when appointing themselves to committees, boards or commissions of other public agencies, special districts, joint powers agencies or joint powers authorities. Current report must be posted on the agency's website.	FPPC Reg. 18702.5(b)(3); GC 34090	Recommended retention: Keep a paper copy of report for 2 years after removal from the agency's website
Agenda / Agenda Packets	Administration	Original agendas / special meeting notices / certificates of posting, etc. - Board of Directors meetings	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Current + 2 years
Agenda reports (staff reports)	Administration	Documentation received, created and/or submitted to Board of Directors	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Current + 2 years

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

Destruction of any record must be authorized by the legislative body. (Gov. Code §§ 60200 - 60204.

Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Agreements (see also Contracts)	Administration	Original contracts and agreements and back-up materials, including leases, license agreements, service/maintenance contracts, etc.	CCP 337 CCP 337.2 CCP 343	4 years after termination/ completion
		Original contracts/agreements regarding the development of real property, design, specifications, surveying, planning, supervision, testing, or observation of construction or improvement to real property; may include records of retention releases, retention withheld, change orders, etc.	CCP 337.15	10 years after termination/completion
Annexations / Reorganizations	Development	Notices, Resolutions, Certificates of Completion (Documents should be retained in original format, whether hard copy or electronic)	GC 34090 GC 60201(d)(1)	Permanent

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Annual Financial Report	Finance	May include independent auditor analysis	GC 34090 Sec. of State Local Gov't Records Mgmt. Guidelines	Until audited + 7 years
Appraisals	Development	For real property owned by District – Exempt from public disclosure until real estate transaction is complete	GC 34090 GC 6254(h)	2 years
Articles of Incorporation	Administration		GC 34090 GC 60201	Permanent

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Audit Reports	Finance	Financial services; internal and/or external reports	GC 60201 CCP 337, 343 Sec. of State Local Gov't Records Mgmt. Guidelines	Current + 4 years Sec. of State Guidelines recommends permanent retention
Audit Hearing or Review	Finance	Documentation created and or received in connection with an audit hearing or review	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	2 years
Backflow Test Reports	Public Works	Reports of testing and maintenance – water supply	17 CCR § 7605	3 years
Bank Account Reconciliations	Finance	Bank statements, receipts, certificates of deposit, etc.	26 CFR 31.6001-1(e)(2)	4 years (Sec. of State Guidelines – recommended retention: until audited + 5 years)

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

Destruction of any record must be authorized by the legislative body. (Gov. Code §§ 60200 - 60204.

Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Behested Payment Report (FPPC Form 803)	Finance	FPPC form used by elected officials to disclose payments made at their behest (\$5,000 or more from same source) for legislative, governmental, or charitable purposes.	GC 81009; 82015(b)(2)(B)(iii)	7 years
Bids, Successful	Development	Includes plan and specifications; notices/affidavits.	GC 34090 CCP 337, 337.1	4 years
Bids, Unsuccessful	Development	Unsuccessful bid packages only (Documents should be retained in original format, whether hard copy or electronic)	GC 34090 GC 60201	2 years
Billing records	Finance	Utility bill stubs – submitted with payment	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Current + 2 years

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

Destruction of any record must be authorized by the legislative body. (Gov. Code §§ 60200 - 60204.

Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Bonds	Finance	Authorization/public hearing records/prospectus/proposals/certificates/notices (transcripts)/registers/statements.	CCP 337.5	Upon cancellation, redemption, or maturity + 10 years
Bonds – Employee (Fidelity Bonds)	Finance	Form of insurance that covers employer (District) for losses resulting from fraudulent acts of specified employees	GC 34090	Current + 2 years
Bonds – Paid/Cancelled	Finance	Paid or cancelled bonds; warrant certificates; interest coupons	CCP 337.5	10 years
Bonds – Unsold/Unused	Finance	Unsold/unused bonds	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines; GC 43900 et seq.	2 years (specific requirements for disposal of unused bonds)
Bonds - Final	Finance	Final bond documentation; monthly statement of transactions; supporting documents	CCP 337.5	Upon cancellation, redemption, or maturity + 10 years
Bonds, Development	Finance	Housing; Industrial Development	CCP 337.5	Upon cancellation, redemption, or maturity + 10 years

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Bonds, Surety	Finance	Documentation created and/or received in connection with the performance of work/services for the District	CCP 337	4 years
Brochures/ Publications	Administration	Retain selected documents only for historic value.	GC 34090 Sec. of State Local Gov't Records Mgmt. Guidelines	Current + 2 years
Budget, Annual	Finance	Annual operating budget approved by legislative body	GC 34090 Sec. of State Local Gov't Records Mgmt. Guidelines	Sec. of State recommends permanent retention . May be revised at a later time.
Cal-OSHA	Administration	Log of work related injuries & illnesses (Form 300), Annual Summary (Form 300A), Incident reports (Form 301)	LC 6410; 8 CCR 14300.33	5 years
California State Tax Records	Finance	Forms filed annually; quarterly and year-end reports	R&TC 19530 R&TC 19704	6 years

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Checks – District-issued	Finance	District checks paid – expense reimbursement to employees; payments to independent contractors; etc. Includes check copies; canceled or voided checks; electronic versions of checks	GC 60201(d)(12) CCP 337	7 years
		District checks paid to vendors; other District payments. Includes check copies; canceled or voided checks; electronic versions of checks.	Sec. of State Local Gov't. Records Mgmt. Guidelines; CCP 337; 26 CFR 31.6001-1(e)(2)	Until audited + 4 years
Claims Filed Against the District	Administration	Government Claims Act – Claims paid/denied (Documents are to be retained in original format, whether hard copy or electronic)	GC 60201(d)(4); GC 34090	Until settled + 2 years
Collective Bargaining Agreements	Administration	Memoranda of Understanding (MOUs) with employee unions; represented employee groups	29 CFR 516.5(b)	Current + 3 years

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Complaints – Customer Complaints – Water Quality, Water Outages	Customer Relations	Customer complaints regarding water quality – odor, taste, appearance; or water outages	40 CFR 122.41(j)(2) 22 CCR 64470	5 years
Complaints - Miscellaneous	Administration	Miscellaneous complaints, not related to specific lawsuits involving the District and not otherwise specifically covered by the retention schedule.	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	2 years
Comprehensive Annual Financial Reports (CAFR)	Finance	Finance	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines; CCP 337	Until audited + 4 years
Conflict of Interest Code	Administration	Conflict of Interest Code – required under Political Reform Act; must be reviewed by July 1st of every even- numbered year and amended if necessary	GC 87300 et seq.	Permanent

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Contracts (see also Agreements)	Administration	Original contracts and agreements and back-up materials, including leases, service/maintenance contracts, etc.	CCP 337 CCP 337.2 CCP 343	4 years after termination/ completion
		Original contracts/agreements regarding the development of real property, design, specifications, surveying, planning, supervision, testing, or observation of construction or improvement to real property; may include records of retention releases, retention withheld, change orders, etc	CCP 337.15	10 years after termination/completion

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Correspondence	Administration	General correspondence regarding District business, including but not limited to letters, email, and text messages; Posts/comments on District-owned social media accounts	GC 34090; Sec. of State Local Gov. Recordapps Mgmt. Guidelines	2 years
Credit Cards, District-owned	Finance	Credit card bills or statements, and other records related to use of District-owned credit cards	26 CFR 31.6001-1(e)(2)	Until audited + 4 years
Deeds, Real Property (Grant Deeds)	Development	File with recorded documents; originals may not be destroyed. (Documents are to be retained in original format, whether hard copy or electronic)	GC 34090 GC 60201(d)	Permanent
Deferred Compensation Reports	Finance	Finance - pension/retirement funds	29 CFR 516.5 29 CFR 1627.3	3 years

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Demographic/ Statistical Data	Administration		GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Current + 2 years
DMV Driver's Records Reports (DMV Pull-Notice System)	Administration	Motor vehicle pulls – Personnel record—Exempt from public disclosure.	GC 34090 GC 6254(c) VC 1808.1(c) Sec. of State Local Gov't. Records Mgmt. Guidelines;	Until superseded (should receive new report every 12 months) Sec. of State recommends until termination + 7 years
Easements, Real Property	Development	File with recorded documents; originals may not be destroyed. (Documents are to be retained in original format, whether hard copy or electronic)	GC 60201(d)(8)	Permanent

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
EEOC Records (Equal Employment Opportunity Commission)	Human Resources	Records, reports showing compliance with federal equal employment requirements (EEO-4 Reports, etc.)	29 CFR 1602.30	3 years
Election - Administrative Documents	Administration	Not ballot cards or absentee voter lists/applications.	GC 34090	2 years
Election – Affidavit Index	Administration	Voter registration index	EC 17001	5 years
Election - Ballots and Related Documents	Administration	STATE & LOCAL ELECTIONS: All ballot cards (voted, spoiled, canceled) arranged by precinct, unused absentee ballots, ballot receipts, absent voter identification envelopes, absentee voter applications. May be destroyed subject to any pending contest.	EC 17302, 17306, 17505	6 months
Election - Ballots and identification envelopes – Federal offices	Administration	For elections to Federal office (President, Vice President, US Senator, US Representative)	EC 17301	22 months

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Election - Ballots - Prop. 218 (Assessment Districts)	Administration	Ballots - Property related fees (assessment ballot proceeding) [Ballots are disclosable public records during and after tabulation]	GC 53753(e)(2)	2 years
Election - Canvass	Administration	Notifications and Publication of Election Records used to compile final election results, including tally sheets, voting machine tabulation, detailed breakdown of results; special election results	EC 17304	6 months
Election - Election Official's Package of Documents	Administration	Package of 2 tally sheets, copy of index, challenge lists, assisted voters list. Public record - all voters may inspect after commencement of official canvass of voters	EC 17304	6 months
Election - Nomination Documents - successful	Administration	All nomination documents and signatures in lieu of filing petitions	EC 17100	during term and 4 years after

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Election - Nomination Documents - unsuccessful	Administration		GC 81009(b)	5 years
Election Petitions - Initiative/Recall/Ref. Charter Amendments	Administration	Not a public record - documents resulting in an election - retention is from election certification	EC 17200, 17400 GC 6253.5; EC 17400; GC 34458-60	8 months
Election Petitions - No election	Administration	Not a public record. Not resulting in an election. Retention is from final examination	EC 17200, 17400 GC 6253.5	8 months
Election - Precinct Records	Administration	From date of election: Precinct official material; declaration of intention; precinct board member applications; orders appointing members of precinct boards and designating polling places includes notice of appointment of office and record of service	EC 17503	5 months

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Election - Roster of Voters	Administration	From date of election; initiative; referendum recall; general municipal election; Charter Amendments	EC 17300	5 years
Election - Voter Affidavits	Administration	Affidavits of registration (including cancelled affidavits); voter registration index	EC 17000, 17001	5 years
Election - Voter Registration Signature Copy	Administration	Fire, special or school district	EC 17000	5 years
Employee Benefits	Administration	Benefit plans (including “cafeteria” and other plans); health insurance programs; records regarding COBRA – extension of benefits for separated employees, insurance policies (health, vision, dental, deferred compensation, etc.)	29 USC 1027 28 CCR 1300.85.1 11 CCR 560 29 CFR 1627.3(b)(2)	For life of plan/policy + 6 years

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Employee Bonds (Fidelity Bonds)	Administration	Form of insurance that covers employer for losses resulting from fraudulent acts of specified employees	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	While employed + 2 years
Employee Files	Administration	Personnel files – Exempt from disclosure	GC 12946 GC 6254(c)	While current + 2 years
Employee Information, General	Administration	Name, address, date of birth, occupation	29 CFR 1627.3(a) LC 1174	3 years
Employee Information, Payroll	Administration	Rate of pay and weekly compensation earned (Documents are to be retained in original format, whether hard copy or electronic)	GC 60201 29 CFR 1627.3(a)	7 years
Employee Information - CEIR	Administration	Personnel--California Employer Information Report (for employers of 100 or more employees)	2 CCR 11013(a), (c)(2) GC 12946	2 years

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Employee Information & Applicant Identification Records	Administration	Personnel--Data regarding race, sex, national origin of non-hired applicants & employees [Employee data must be kept separate from personnel files]	2 CCR 11013(b), (c)(2), (c)(3)	Current + 2 years

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Employee, Medical & Exposure Records (toxic substances or harmful physical agents)	Administration	<p>Medical records are part of personnel file --not a public record.</p> <p>Includes medical records made or maintained by a physician, nurse, or other health care personnel, or technician pertaining to employees exposed to toxic substances or harmful physical agents.</p> <p>Does <u>not</u> include first-aid records of one-time treatment made on-site by a non-physician or observation of minor scratches, cuts, burns, splinters, etc., which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job.</p> <p>(For employees of less than 1 year, no need to retain medical records regarding exposure to toxic substances/harmful physical agents if they are returned to employee upon termination)</p>	<p>GC 6254(c)</p> <p>29 CFR 1910.1020</p> <p>8 CCR 3204</p> <p>(d)(1)(A)(B)</p>	<p>Length of employment + 30 years</p>

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Employee, Non-safety	Administration	Non-safety employee records may include: Release Authorizations; Certifications; Reassignments; outside employment; commendations, disciplinary actions; terminations; Oaths of Office; evaluations-pre-employee medicals; fingerprints; identification cards (ID's)	29 CFR 1627.3 GC 12946	Length of employment + 3 years
Employee Programs	Administration	Includes EAP and Recognition	GC 34090 GC 12946	Current + 2 years
Employee, Recruitment	Administration	Alternate lists/logs, ethnicity disclosures, examination materials, examination answer sheets, job bulletins	GC 12946 GC 34090 29 CFR 1602.31 29 CFR 1627.3	Current + 3 years
Employee, Reports	Administration	Employee statistics, benefit activity, liability loss	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Current + 2 years

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Employee, Safety	Administration	Police, fire, emergency employees may include: Release authorizations; certifications; reassignments; outside employment; commendations; disciplinary actions; terminations; Oaths of Office; evaluations-pre-employment medical evaluations	29 CFR 1627.3 29 CFR 1602.31 29 CFR 516.6 et. seq. 45 CFR 1068.6(a) GC 34090 GC 12946	Current + 3 years
Employment Applications - Not Hired	Administration	Applications submitted for existing or anticipated job openings, including any records pertaining to failure or refusal to hire applicant	GC 12946 29 CFR 1627.3(b)(1)(i)	2 years
Employment Eligibility Verification (I-9 Forms)	Administration	Federal Immigration and Nationality Act	8 USC 1324a (b)(3)	3 years after date of hire, or 1 year after date of termination, whichever is later
Employment - Personnel (by name)	Administration	Paperwork documenting internal and external training	GC 12946	Length of employment + 2 years

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Employment - Public Safety	Administration	Certification/designations	GC 34090 GC 12946	Length of employment + 2 years
Employment - Surveys and Studies	Administration	Includes classification, wage rates	29 CFR 516.6(a)(2)	2 years
Employment - Training Records, Non-Safety	Administration	Volunteer program training - class training materials, internships	GC 34090 GC 12946	Length of employment + 2 years
Employment - Vehicle Mileage Reimbursement Rates	Administration	Annual mileage reimbursement rates	GC 60201(d)(10)	Until superseded
Environmental Quality Air Quality (AQMD)	Development	Participants/voucher logs, Total Daily Mileage Survey (TDM); various local authorities; Commute Alternative	CCP 338(k); GC 34090	3 years

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Environmental Quality Asbestos	Development	Documents, abatement projects, public buildings	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Permanent
Environmental Quality California Environmental Quality Act (CEQA)	Development	Exemptions, Environmental Impact Report, Mitigation monitoring, negative declaration, notices of completion and determination, comments, statements of overriding considerations	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines; CEQA Guidelines	Permanent
Environmental Quality Congestion Management	Development	Ride sharing, trip management	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Completion + 2 years
Environmental Quality Environmental Review	Development	Correspondence, consultants, issues, conservation	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Completion + 2 years

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Environmental Quality Pest Control	Development	Pesticide applications, inspections and sampling documents	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Completion + 2 years
Environmental Quality Soil	Development	Analysis, construction recommendations	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Completion + 2 years
Environmental Quality Soil Reports	Development	Final Reports	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Permanent
ERISA Records (Employee Retirement Income Security Act)	Administration	Employee Retirement Income Security Act of 1974 - plan reports, certified information filed	29 USC 1027	6 years after date filed

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Ethics Training Records	Administration	Records required to be kept. Records must show dates that local officials and designated staff satisfied the training requirements and the entity that provided the training	GC 53235.2	5 years after receipt of training
Family and Medical Leave Act	Administration	Records of leave taken, District policies relating to leave, notices, communications relating to taking leave	29 CFR 825.500 GC 12946	While employed +3 years (federal) or 2 years (State)
Federal Tax Records	Finance	May include as attachments copies of Forms 1095-C, 1096, 1099, W-4 and W-2	26 CFR 31.6001.1-4 26 CFR 31.6001-1(e)(2) 29 CFR 516.5-516.6	Current + 4 years
Fire Protection District Administration	Public Safety	Administrative documents.	GC 34090	2 years

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Fire Safety Administration	Public Safety	General orders, policies & procedures	GC 34090	Until superseded + 2 years
Fixed Assets Inventory	Finance	Reflects purchase date, cost, account number	GC 34090 CCP 337, 343	Until audited + 4 years
Fixed Assets Surplus Property	Finance	Auction; disposal – Listing of property; sealed bid sales of equipment	GC 34090 CCP 337, 343	Until audited + 4 years
Fixed Assets Vehicle Ownership & Title	Finance	Title transfers when vehicle is sold.	VC 9900 et. seq.; GC 60201(d)(10)	Until sold
Fund Transfers	Finance	Internal; bank transfers & wires	CCP 337; 26 CFR 31.6001-1(e)(2)	Until audited + 4 years

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
General Ledgers	Finance	All annual financial summaries--all agencies	GC 34090 CCP 337 Sec. of State Local Gov't Records Mgmt. Guidelines	Until audited + 4 years Published articles show 4 – 7 years retention as typical. Sec. of State Guidelines recommends permanent retention
Gift to Agency Report (FPPC Form 801)	Administration	FPPC form showing payment or donation made to the District or to a District official and which can be accepted as being made to the District	2 CCR 18944(c)(3)(F), (G); FPPC Fact Sheet : “Gifts to an Agency – Part 2	Original - retain 7 years; Copy must be posted on agency website
Gifts/Bequests	Finance	Receipts or other documentation	GC 34090	Until completed + 2 years

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Grants - Successful Community Development Block Grant (CDBG); Urban Development; other Federal and State grants	Development	Grant documents and all supporting documents: applications, reports, contracts, project files, proposals, statements, sub-recipient dockets, environmental review, inventory, consolidated plan, etc.	GC 34090 24 CFR 570.502 24 CFR 85.42	Until completed + 4 years
Grants – Unsuccessful	Development	Applications; Documents showing rejection or denial of application	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	2 years
Hazardous Materials - Hazardous Waste Disposal	Public Safety	Documents regarding handling and disposal of hazardous waste [Permanent retention of environmentally sensitive materials is recommended]	H&S 117945 H&S 118165 22 CCR 66279.91 3 CCR 6624(g)	While current + 10 years

Legal Authorities Abbreviation

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CFR	Code of Federal Regulations	R&TC	Revenue & Taxation Code (California)		
EC	Elections Code (California)	USC	United States Code		

RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

Destruction of any record must be authorized by the legislative body. (Gov. Code §§ 60200 - 60204.

Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Hazardous Materials - Permits, Hazardous Materials Storage	Public Safety	[Permanent retention of environmentally sensitive materials is recommended]	H&S 117945 H&S 118165 22 CCR 66279.91 3 CCR 6624(g)	While current + 10 years
Hazardous Materials - Exposure Records, etc.	Public Safety	Employee exposure records; name/identity of chemical substance used; when & where chemical substance was used	8 CCR 3204(d)(1)(B)	30 years
Hazardous Materials - Underground Storage Tank	Public Safety	Compliance: Documents regarding: storage, location, installation, removal, remediation, maintenance and repair	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Permanent

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Improvements (lighting, underground utility) – supporting documents	Public Works	Supporting documents – bonds, taxes, construction	GC 34090 Sec. of State Local Gov't. Records Mgmt. Guidelines	Permanent
Insurance	Finance	Personnel related	GC 34090	Current + 2 years
Insurance, Joint Powers Agreement	Finance	Accreditation, MOU, agreements and agendas	GC 34090 Sec of State Guidelines	Current + 2 years Sec. of State recommends permanent retention
Insurance Certificates	Finance	Liability, performance bonds, employee bonds, property: Insurance certificates filed separately from contracts, includes insurance filed by licensees.	GC 34090 Sec. of State Guidelines	Current + 2 years Sec. of State recommends permanent retention

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Insurance, Liability/Property	Finance	May include liability, property, Certificates of Participation, deferred, use of facilities	GC 34090 Sec. of State Guidelines	Current + 2 years Sec. of State recommends permanent retention
Insurance, Risk Management Reports	Finance	Federal OSHA Forms; Loss Analysis Report; Safety Reports; Actuarial Studies	29 CFR 1904.44 GC 34090	5 years (Federal) 2 years (State)
Investment Reports, Transactions	Finance	Summary of transactions, inventory and earnings report	GC 34090 CCP 337 Sec. of State Local Gov't Records Mgmt. Guidelines	Permanent

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Invoices	Finance	Invoices from vendors and back-up documents	CCP 337 26 CFR 31.6001-1(e)(2); Sec. of State Local Gov't Records Mgmt. Guidelines recommendation	Until audited + 4 years
Job Descriptions	Human Resources	Descriptions of duties, qualifications, responsibilities for each position/classification/job title	29 CFR 1627.3	While current + 3 years
Lease Agreement	Administration	Property or equipment	CCP 337 CCP 337.2 CCP 343	Until terminated + 4 years

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Legal Notices/Affidavits of Publication	Administration	Notices of public hearings, proof of publication of notices	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	2 years
Legal Opinions	Administration	Confidential – not for public disclosure (attorney-client privilege)	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Until superseded + 2 years
Litigation	Administration	Case files (Documents are to be retained in original format, whether hard copy or electronic)	GC 60201(d)(4)	Until settled or adjudicated + 2 years
Lobbying or Lobbyist Forms (FPPC forms)	Administration	FPPC Form 602 – Lobbying Firm Activity Authorization; FPPC Form 635 – Report of Lobbyist Employer & Report of Lobbying Coalition – forms used when employing or contracting with a lobbying firm	FPPC Reg. 18615(d)	5 years

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Maintenance Manuals	Administration	Equipment service/maintenance	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Current + 2 years
Maintenance/Repair Records	Administration	Equipment	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	2 years
Marketing, Promotional	Administration	Brochures, announcements, etc.	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Internal - 2 years External – 7 years
Meter Operations	Public Works	Reader reports; orders; tests; maintenance reports	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	2 years

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Meter Reading	Public Works	Reports and rebate reports	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Current + 2 years
Minutes – Board meetings	Administration	Minutes of District Board meetings. Documents may be imaged immediately. (Documents are to be retained in original format, whether hard copy or electronic)	GC 34090, 60201	Permanent
Newsletter, District	Administration	May wish to retain permanently for historic reference.	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	2 years
Notices – Public Meetings	Administration	Special Meetings	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	2 years

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Oaths of Office	Administration	Elected and public officials – Board Members	GC 34090 29 USC 1113 Sec. of State Local Gov't Records Mgmt. Guidelines	Length of term/employment plus 6 years
OSHA	Administration	OSHA 300 Log, privacy case list, OSHA 300A annual summary, OSHA 301 incident report forms	LC 6410; 8 CCR 14300.33 29 CFR 1904.33	5 years
OSHA (Accident/Illness Reports)	Administration	Personnel - Employee Exposure Records & Employee Medical Records regarding exposure to toxic substances Exempt from disclosure	LC 6410; 8 CCR 14307; 8 CCR. 3204(d)(1)(A); GC 6254(c)	Duration of employment plus 30 years
Payroll - Federal/State Reports	Finance	Annual W-2's, W-4's, Form 1099s, etc.; quarterly and year-end reports	GC 60201	7 years

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Payroll Deduction/ Authorizations	Finance	Finance	29 CFR 516.6(c) GC 60201	While Current + 7 years
Payroll records	Finance	Records that specify compensation paid to employees, officers (Documents are to be retained in original format, whether hard copy or electronic)	GC 60201(d)(12)	7 years after date of payment
Payroll records -employee information	Finance	Records showing employee information/data – names, addresses, etc.	29 CFR 516.5 LC 1174(d)	3 years from date of last entry
Payroll records, terminated employees	Finance	Finance files (Documents are to be retained in original format, whether hard copy or electronic)	29 CFR 516.5 GC 60201(d)(12)	7 years from date of last entry

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Payroll, registers	Finance	Payroll registers, payroll reports (Documents are to be retained in original format, whether hard copy or electronic) Registers that show labor costs by employee and program	29 CFR 516.5(a) LC 1174(d) GC 60201(d)(12) Sec. of State Local Gov't Records Mgmt. Guidelines	7 years from date of last payment Sec. of State recommends permanent retention
Payroll, time cards/sheets	Finance	Employee	29 C.F.R. 516.6; LC 1174; Sec. of State Local Gov't. Records Mgmt. Guidelines	3 years Sec. of State Guidelines recommendation - Until audited + 6 years
Payroll - Wage Rates / Job Classifications	Finance	Employee records	LC 1197.5(d) LC 1174(d) GC 12946 29 CFR 516.6 29 CFR 1602.4 29 CFR 1627.3	While current + 3 years

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
PERS - Employee Benefits	Human Resources	Retirement Plan – annual reports required to be filed under ERISA PERS Employee Benefit Plan – original document, or copies	29 USC 1027 29 CFR 1627.3(b)(2) GC 34090	6 years Current + 2 years
Personnel Policies -- Rules and Regulations	Human Resources	Including employee handbooks, employee manuals, and other policies/procedures	29 CFR 516.6 29 CFR 1627.3(a)	Current + 3 years
Personnel Records	Human Resources	Other records (not payroll) – job applications, resumes; records relating to promotion, demotion, transfer, lay-off, termination; results of employment tests, etc.	GC 12946 29 CFR 1627.3	Current + 3 years
Petitions	Administration	Submitted to legislative bodies	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	2 years

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Policies, Administrative	Administration	All policies and procedures, directives rendered by the District not assigned a resolution number	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Current + 2 years
Policies, District Board	Administration	Original policies adopted by the District Board	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Current + 2 years
Press Releases	Administration	Related to District actions/activities.	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	2 years
Procedure Manuals	Administration	Administrative.	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Current + 2 years

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Property, Abandonment	Development	Buildings, condemnation, demolition	GC 34090, 60201; Sec. of State Local Gov't Records Mgmt. Guidelines	Permanent
Property Acquisition/ Disposition	Development	District owned. Supporting documents regarding sale, purchase, exchange, lease or rental of property by District	CCP 337.15	10 years
Public Records Request	Administration	Requests from the public to inspect or copy public documents	GC 34090 GC 60201(d)(5)	2 years
Purchasing RFQ's, RFP's	Finance	Requests for Qualifications; Requests for Proposals regarding goods and services	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Until audited + 4 years
Purchasing, Requisitions, Purchase Orders	Finance	Original Documents	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines; CCP 337	Until audited + 4 years

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Recordings – audio (e.g., for preparation of meeting minutes)	Administration	Audio recordings of Board meetings – “made for whatever purpose by or at the direction of the local agency”	GC 54953.5(b)	Minimum 30 days
Recordings - routine video monitoring, telephone, and radio communications	Administration	Routine daily recording of telephone communications & radio communications; recordings of routine video monitoring, monitoring systems, or building security systems	GC 53160, 53161	Videos - 1 year; Phone & Radio communications - 100 days (destruction must be approved by legislative body and with written consent of agency attorney). If recordings relate to a claim or pending litigation, they must be preserved until the matter is resolved. If another record of the video recording is kept (written minutes or audio recording), video needs to be kept for only 90 days after the recorded event.
Recordings, video recordings – meetings of legislative bodies	Administration	Recordings of public meetings made by or at the direction of the District (e.g., Board meetings)	GC 54953.5(b)	Minimum 30 days

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Recordings, video or digitally recorded – other events (Duplicate – See Description or Example of Record)	Administration	Other than videos or digital recordings of public meetings; Considered duplicate records if another record of the same event is kept (i.e., written minutes or audio recording)	GC 53161 85 Ops. Cal. Atty. Gen. 256 (2002)	Minimum 90 days after event is recorded
Records Management Disposition/Destruction Certification	Administration	Documentation of final disposition/destruction of records	GC 34090, 60201(d)(10)	Permanent
Records Retention Schedules	Administration		GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Current + 4 years
Recruitments and Selection	Administration	Records relating to hiring, promotion, selection for training	29 CFR 1627.3	3 years
Resolutions	Administration	Vital records – may be imaged immediately	GC 60201 GC 34090	Permanent

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Returned Checks	Finance	Adjustments-NSF, etc. (not District checks)	GC 34090 CCP 337, 343	Until audited + 4 years
Salary/Compensation Studies, Surveys	Human Resources	Studies or surveys of other agencies regarding wages, salaries and other compensation or benefits	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	While current + 2 years
Settlement Agreements	Administration	Final, signed/approved settlement agreements for litigation matters, claims, etc. For Workers Compensation claims – final, signed/approved settlement agreements	GC 60201(d)(4) 8 CCR 10102 8 CCR 15400.2	2 years after signed/approved 5 years after signed/approved
State Controller	Finance	Annual reports.	GC 34090	2 years
State Tax Records	Finance	Forms filed annually; quarterly and year-end reports	R&TC 19530 R&TC 19704	6 years

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Statements of Economic Interest (SEI) - Form 700 (copies) (elected officials)	Administration	Copies of original statements of elected officials forwarded to Fair Political Practices Commission. (Retain hard copy for 2 years, then retain imaged electronic version)	GC 81009(f), (g)	4 years (can image after 2 years)
Statements of Economic Interest Statements (SEI) - Form 700 (originals) - non-elected	Administration	Originals of statements of designated employees (Retain hard copy for 2 years, then retain imaged electronic version)	GC 81009(e), (g)	7 years (can image after 2 years)
Taxes, Special	Finance	Special tax levied by a local agency on a per parcel basis	CCP 338	Until audited + 3 years
Underground Utility – supporting documents	Public Works	Supporting documents for improvements, lighting – bonds, taxes, construction	GC 34090 Sec. of State Local Gov't. Records Mgmt. Guidelines	Permanent

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Unemployment Insurance Records	Finance	Records relating to unemployment insurance – claims, payments, correspondence, etc.	26 USC 3301-3311; Calif. Unemployment Insurance Code; CCP 343	While current + 4 years
Utility Services - Applications	Public Works	Applications for utility connections, disconnects, registers, service	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines recommendation	Current + 2 years
Utility Services - Billing Records	Public Works	Customer name, service address, meter reading, usage, payments, applications/cancellations	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines recommendation	Until audited + 2 years
Utility Services - Connection Records	Public Works	Maps, water line connections	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines recommendation	Permanent

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Utility Services - Journals, Utility Billing	Public Works	Billing including monthly activity	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines recommendation	Current + 2 years
Utility Services - Meter Reading; Reports	Public Works		GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Current + 2 years
Utility Services - Utility Rebates, Reports	Public Works		GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Current + 2 years
Vouchers - Payments	Finance	Account postings with supporting documents	GC 34090 CCP 337	Until audited + 4 years
Wage Garnishment	Finance	Wage or salary garnishment	CCP 337	Active until garnishment is satisfied; then retain until audited + 4 years

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RECORDS RETENTION SCHEDULE FOR SPECIAL DISTRICTS

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Type of Record	Category	Description or Example of Record	Legal Authority	Minimum Legal Retention Period
Warrant Register/Check Register	Finance	Record of checks issued; approved by legislative body (copy is normally retained as part of agenda packet information)	GC 34090; Sec. of State Local Gov't Records Mgmt. Guidelines	Until audited + 2 years
Workers Compensation Files	Finance	Work-injury claims (including denied claims); claim files, reports, etc.	8 CCR 10102	Until the latest of the following dates: 5 years from date of injury; or 1 year from date compensation was last provided; or when all compensation due has been paid.

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POLICY 9 CAPITAL ASSETS POLICY

Overview

BAWA will maintain a capital asset management system that will meet external financial reporting requirements and the needs of BAWA in line with these policies.

Capital assets are recorded as expenditures in BAWA funds at the time the assets are received and the liability is incurred. These assets will be capitalized at cost on BAWA's financial statements.

Capital Assets are defined as land, improvements to land, easements, buildings, building improvements, vehicles, machinery, equipment, infrastructure, and all other tangible or intangible assets that are used in operations and that have initial useful lives extending beyond a single reporting period.

BAWA's Capital Assets Policy follows the recommended practices of the GFOA (Government Finance Officers Association) and the accounting standards of GASB 34.

Capitalization

Generally, the capitalization threshold for capital assets will be an original cost of \$2,500 or more (recorded as an asset on the balance sheet versus expensing the item). Specific capitalization requirements are described as follows:

- a. The capitalization threshold is applied to individual units of capital assets rather than groups. For example, ten desks purchased for \$1,000 each will not be capitalized even though the total (\$10,000) exceeds the threshold of \$2,500.
- b. For purposes of capitalization, the threshold will generally not be applied to components of capital assets. For example a keyboard, monitor and central processing unit purchased as components of a computer system will not be evaluated individually against the capitalization threshold. The entire computer system will be treated as a single asset. The capitalization threshold will be applied to a network if all component parts are required to make the asset functional.
- c. Repairs to existing capital assets will generally not be subject to capitalization unless the repair extends the useful life of the asset. In this case the repair represents an improvement and is subject to the requirements described in item "d" below.
- d. Improvements to existing capital assets will be presumed by definition to extend the useful life of the related capital asset and therefore will be subject to capitalization if the cost exceeds \$2,500.

Leased Assets

Operating leased assets are usually short term and cancelable at anytime. The recording of an operating lease as a fixed asset is not required because the item is not purchased.

However, operating leases will be capitalized if one or more of the following criteria are met and the chance of cancellation is low:

- a. Ownership is transferred by the end of the lease term
- b. The lease contains a bargain purchase option
- c. The lease term is greater than or equal to 75 percent of the asset's service life
- d. The present value of the minimum lease payment is greater than or equal to ninety percent (90%) of the fair market value of the asset at the inception of the lease.

Capital lease items are capitalized at the beginning of the lease period, regardless of when the title transfers. Capital leases are recorded at net present value of lease payments.

Capital Asset Recording

BAWA will keep appropriate records in order to monitor and accurately inventory all fixed assets.

Acquisition of Capital Assets

Fixed assets may be acquired through direct purchase, lease-purchase or capital lease, construction, donations, and gifts. When a capital asset is acquired, the funding source will be identified. Additionally, the fund type will be identified as well as the specific fund.

Measuring the Cost and/or Value

Capital assets are recorded at their "historical cost," which is the original cost of the assets. Costs include purchase price (less discounts) and any other reasonable and necessary costs incurred to place the asset in its intended location and prepare it for service. Costs could include the following:

Sales Tax	Land-preparation costs
Freight charges	Demolition costs
Legal and title fees	Relocation costs
Closing costs	Architect and accounting fees
Appraisal and negotiation fees	Insurance premiums and interest costs during construction
Surveying fees	

Recording Costs Incurred After Acquisition

Expenditures/expenses for replacing a component part of an asset are not capitalized. However, expenditures/expenses that either enhance a capital asset's functionality (effectiveness or efficiency), or that extend a capital asset's expected useful life are capitalized.

Disposition or Retirement of Capital Assets

It is BAWA's policy that disposition of surplus, damaged or inoperative equipment will be at the discretion of BAWA's Administrator or Chief Plant Operator, who will make all efforts to sell, donate or recycle such items.

Depreciation

BAWA will record depreciation expense on all capital assets. BAWA will use straight-line depreciation. Depreciation will be calculated beginning the first of the month following the acquisition of an asset. Depreciation will be calculated over the estimated useful life of the asset.

Recommended Lives

BAWA follows GFOA Recommended Practices when establishing recommended lives for assets to be capitalized. The attached summary of suggested useful lives for capital assets of local governments will be followed. If the life of a particular asset is estimated to be different than these guidelines, it may be changed.

Control of Assets

BAWA will exercise control over the noncapitalized tangible capital-type items by establishing and maintaining adequate control procedures. BAWA's capitalization threshold of \$2,500 meets financial reporting needs.

Inventory

BAWA will perform a physical inventory of its capitalized assets, either simultaneously or on a rotating basis, so that all capital assets are physically accounted for at least once every three years.

Capital Assets of Local Governments Suggested Useful Lives

<u>Asset Type</u>	<u>Examples</u>	<u>Depreciable Life In years</u>
<u>Non-infrastructure</u>		
Furniture, office equipment	Desks, tables chairs	5
Computer Hardware	Monitors, CPU, printer	5
Telephone Equipment		10

Motor Vehicles

Cars and light trucks		5
Busses	School, City	8-10
Fire trucks		15
Buildings-Temporary	T-buildings, other portable	25
Buildings		40
HVAC Systems	Air-conditioner, heating, ventilation systems	20
Roofing		20
Carpet Replacement		7
Electrical Plumbing		30
Kitchen Equipment	Appliances	12
Heavy Construction Equipment	Backhoes, Trucks, Dozers, front-end loaders, Large Tractors	5-10
Engineering, Scientific Equipment	Lab Equipment	10
Firefighting Equipment	Ladder, hoses	10
Police Special Equipment		10
Medical Equipment		5
Traffic Control Equipment	Stoplights	10
Radio, communications equipment	Mobile, portable radios	10
Recreational Athletic Equipment	Weight machines, mats, golf carts, treadmills, tackling sled, pitching machines	10
Library Books	Collections	5-7
Artwork	Collections	5-7
Outdoor Equipment	Playground equipment, scoreboards, bleachers, radio towers	20
Custodial Equipment	Floor scrubbers, vacuums, other	12
Grounds Equipment	Mowers, tractors and attachments	15
Land Improvements – structure	Parking logs, sidewalks, bus ramp, fencing, running track, flagpole	20
Land Improvements – ground work	Golf Course, Ball field, park landscaping	30
Landfill Disposal Systems		25
Land		No depreciation
Sewerage treatment plants		25
<u>Infrastructure</u>		
Easements		No depreciation
Drainage Systems		25
Water Systems		25
Sewerage disposal Works System		25
Waterway		
Levees and canals (unlined)		No depreciation

Canal lining	30
Dams	
Concrete	50
Steel, Sheetpile	30
Earthen embankment	No depreciation
Roads	
Paved	40
Asphalt – rural	40
Asphalt – urban	20
Non-paved	50

POLICY 10
BAWA PURCHASING CARD POLICY

10.0 **PURPOSE.** To provide policy direction and instructions on the proper use of BAWA purchasing credit cards provided through the California Special Districts Association/Umpqua Bank Program for purchases of supplies, materials, equipment, travel and all other BAWA expenses, not to exceed individual limits established by the BAWA's Board of Directors by motion and within the Board approved budget.

10.1 **POLICY.** A purchasing credit card will be issued to Bishop Area Wastewater Authority BAWA personnel for the purpose of conducting BAWA business. Cards will be issued to all full-time employees.

10.2 **GENERAL GUIDELINES.**

- The purchasing credit card will have the employee's name and BAWA name on the card.
- Authorization to use this card is restricted to the individual card holder. It may not be delegated.
- The card is to be used for official business and may not be used for personal purchases at any time.
- When receiving a credit card, the employee will receive a copy of the certification and receipt of credit card which indicates the maximum dollar amount of each single purchase and a total for all purchases made with the credit card within a given month (i.e. credit limit).
- The Board of Directors will establish the card holders and credit limits.
- Each single purchase may be comprised of multiple items, but the total, including tax, cannot exceed the single purchase dollar limit on the credit card.
- The issuance of a credit card in the employee's name shall not allow the credit card company to perform any credit check on the employee's personal credit. The credit card company shall not request any personal information from the employee, nor should any personal information be furnished.

10.3 **BILLING STATEMENTS.**

- At the end of a billing cycle, Umpqua Bank will make available online statement and bill pay for BAWA.
- The Administrator will provide each card holder with a copy of their monthly statement.
- The card holder is required to review and attest to the accuracy of the purchases for their respective card.
- The card holder will indicate the appropriate budget account number by each transaction and forward it along with all receipts to the Administrator within seven (7) calendar days of receipt.
- The Administrator will be responsible for receiving completed transaction coding and receipts from all card holders, reviewing them, resolving questions that he/she may have on the purchases and completing payment prior to the due date.

10.4 **DISPUTES.** When items purchased with the credit card are found to be defective, the card holder has the responsibility to return the item(s) to the merchant for replacement or to receive a credit on the purchase. If the merchant refuses to replace or correct the faulty item, then the purchase of this item will be considered to be in dispute and will not be paid for until resolved.

A disputed item must be noted on the card holder's Statement of Account so it will not be paid until the problem is resolved and Umpqua Bank should be notified immediately of such dispute.

10.5 **REQUEST FOR ADDITIONAL CARDS.** Requests for additional cards for new card holders will be submitted in writing to the Administrator and shall include justifications for the additions.

10.6 **LOST/STOLEN CREDIT CARDS.** Should any employee lose or have his/her purchasing credit card stolen, it is their responsibility to contact the credit card company immediately. The employee losing the card must also notify the Administrator within one (1) working day.

The employee shall provide the credit card number, full name, the date reported to the police if stolen, date the credit card company was notified and any purchases made the day the card was stolen or lost to the Administrator.

10.7 SEPARATION OF EMPLOYMENT. Employees that are separating from service with BAWA must turn in the BAWA-issued purchasing credit card to the Administrator prior to or on the last day of employment. The Administrator will notify the card company of the employee's separation of service and destroy the credit card.

10.8 CARD RESTRICTIONS. Credit cards shall not be used to receive any cash advances. Additional restrictions may be applied by the Board as appropriate.

10.9 MISUSE OF CARD. Misuse of the credit card or noncompliance with this policy as determined by the Board shall result in the immediate revocation of the credit card and all its privileges. Misuse may also result in employee discipline up to and including termination.

RESOLUTION NO. _____

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BISHOP AREA
WASTEWATER AUTHORITY ADOPTING A BYLAWS AND POLICY MANUAL**

WHEREAS, the Bishop Area Wastewater Authority (“BAWA”) was established on June 25, 2020 pursuant to the Joint Exercise of Powers Act, Government Code section 6500 *et seq.*, and a Joint Exercise of Powers Agreement (“JPA Agreement”); and

WHEREAS, pursuant to Section 2.4 and 6.6 of the JPA Agreement, BAWA has the power to adopt such bylaws as the Board may deem necessary to govern its day-to-day operations and such policies relating to procurement of services, equipment, supplies and other materials needed to accomplish the purposes of the JPA Agreement; and

WHEREAS, pursuant to Government Code section 61045, BAWA has the authority to adopt rules or bylaws for its proceedings as well as policies for its operations; and

NOW, THEREFORE, BE IT RESOLVED the Board of Directors of the Bishop Area Wastewater Authority hereby resolves to adopt its Bylaws and Policy Manual attached in Exhibit “A.” The Bylaws and Policy Manual shall become effective upon the approval of this Resolution by the Board of Directors.

PASSED AND ADOPTED at the regular meeting of the Board of Directors at the Bishop Area Wastewater Authority held this 20th day of October, 2020.

By: _____
Walt Pachucki, Chair
Bishop Area Wastewater Authority

ATTEST:

By: _____
Jennifer Krafcheck, Clerk

AYES: _____ NOES: _____ ABSENT: _____ ABSTAIN: _____

Exhibit “A”

[See Attached Bylaws and Policy Manual]

RESOLUTION NO. _____

**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE BISHOP AREA
WASTEWATER AUTHORITY PROVIDING GUIDANCE TO STAFF CONCERNING
CERTAIN PROPERTIES OWNED BY THE LOS ANGELES DEPARTMENT OF
WATER AND POWER**

WHEREAS, the Bishop Area Wastewater Authority (“BAWA”) is a public agency of the State of California formed by a Joint Exercise of Powers Agreement (“Agreement”) operating pursuant to the laws applicable to Community Services Districts, Government Code section 61000 et seq.; and

WHEREAS, pursuant to Sections 1.2 and 1.5.2(d) of the Agreement, and Section 61060(d) of the California Government Code, BAWA has the power to acquire real property; and

WHEREAS, one of the many reasons BAWA was formed was to investigate the acquisition of certain properties (the “Properties”) from the Los Angeles Department of Water and Power (“LADWP”); and

WHEREAS, BAWA is working with the Lahontan Regional Water Quality Control Board regarding future regulatory requirements impacting the Bishop and Eastern Sierra Community Service District wastewater collection and treatment systems for the purpose of further identifying opportunities for collaboration and coordination involving future projects, including projects involving the Properties; and

WHEREAS, the BAWA Board of Directors would like to direct staff to commence investigations of the Properties and if feasible, to commence negotiations to acquire the Properties; and

WHEREAS, two local Inyo County ranch operators currently lease the Properties (“Lessees”); and

WHEREAS, the Lessees have leased the Properties for ranching purposes for many years; and

WHEREAS the Lessees have been an integral part of Inyo County providing property taxes, jobs and income for the residents of Inyo County; and

WHEREAS, BAWA acknowledges the interest Lessees have in continuing to lease the Properties in order to support their livelihoods; and

WHEREAS, LADWP must comply with certain requirements when disposing of real property, including the Properties, which requirements, in part, involve working cooperatively with the Lessees; and

WHEREAS, it is believed that continuing the existing uses of the Properties by the Lessees is consistent with the purposes for which BAWA wishes to acquire the Properties; and

WHEREAS, continuing to lease the Properties for current uses will provide a steady revenue stream for BAWA; and

WHEREAS, while BAWA’s current Board of Directors realizes that it cannot bind the hands of future BAWA Boards of Directors, it is the intent of the current BAWA Board of Directors, concurrently with negotiations for acquisition of the Properties with LADWP, also negotiate in good faith new leases with the Lessees which may be ready to be executed upon the completion of the acquisition of the Properties; and

WHEREAS, BAWA was formed in part to seek the best interests of the community of the City of Bishop as well as the Eastern Sierra Community Services District.

NOW, THEREFORE, BE IT RESOLVED the Board of Directors of the Bishop Area Wastewater Authority hereby resolves to give the BAWA Administrator guidance to work with the LADWP to acquire the Properties subject to successful negotiation of a purchase and sale agreement, and to work with the Lessees to negotiate in good faith on new leases for the Properties, subject, but not limited to, the various conditions mentioned herein.

PASSED AND ADOPTED at the regular meeting of the Board of Directors at the Bishop Area Wastewater Authority held this 20th day of October, 2020.

By: _____
Walt Pachucki, Chair
Bishop Area Wastewater Authority

ATTEST:

By: _____
Jennifer Krafcheck, Clerk

AYES: _____ NOES: _____ ABSENT: _____ ABSTAIN: _____

**BISHOP AREA WASTEWATER AUTHORITY
ADMINISTRATIVE SERVICES AGREEMENT**

THIS ADMINISTRATIVE SERVICES AGREEMENT (“**Agreement**”), is made and entered into by and between the BISHOP AREA WASTEWATER AUTHORITY, a joint powers agency (“**Authority**”), and the CITY OF BISHOP, a California municipal corporation (“**City**”). The Authority and City are sometimes referred to in this Agreement individually as a “**Party**” and collectively as the “**Parties.**”

RECITALS

A. The City was incorporated in 1903, and among other municipal services, provides wastewater collection, treatment, and disposal services within the majority of its boundaries; and

B. The City also owns and operates a wastewater collection and treatment system, including a wastewater treatment plant; and

C. Eastern Sierra Community Service City (“**ESCS**D”) was formed in 1977 for the purposes of providing wastewater collection, treatment and disposal services within its boundaries; and

D. ESCSD owns and operates a wastewater collection and treatment system, including a wastewater treatment plant; and

E. On June 25, 2020, the City and ESCSD entered into a Joint Exercise of Powers Agreement (“**JPA Agreement**”) establishing the Authority as a separate public agency for the purposes of, among other things, operating, maintaining and improving both the existing irrigation system related to the City and ESCSD’s wastewater treatment plants and creating a new irrigation system; acquiring and/or leasing additional land from the City of Los Angeles Department of Water and Power to increase acreage in the irrigable discharge area; designing and constructing a diversion structure to alleviate capacity concerns; pursuing grant funding and financing options for future projects; funding storage pond improvements; constructing additional monitoring wells; incorporating existing City acreage into an Authority-operated discharge area; collectively interacting with regulatory agencies with oversight over both the City and ESCSD; and studying the consolidation of the two wastewater treatment plants; and

F. Section 4.7 of the JPA Agreement provides that the Authority Board of Directors may appoint an Administrator for the purposes of managing and administering the Authority; and

G. Section 1.1.2 of the JPA Agreement provides that a member agency of the Authority may be appointed as the Administrator; and

H. Section 4.4 of the JPA Agreement provides that, unless the Authority Board elects otherwise, the Administrator’s senior financial officer shall be the Authority’s Treasurer and Auditor/Controller; and

I. Pursuant to the terms and conditions of this Agreement, the Authority desires to contract with City, and City desires to contract with Authority, for City to provide management and administrative services to the Authority as its Administrator.

AGREEMENT

NOW THEREFORE, in consideration of the above Recitals and of the mutual promises and agreements contained herein, the Parties agree as follows:

1. **Definitions.** Unless the context otherwise requires, the words and terms defined in this Section 1 shall, for the purposes of this Agreement, have the meanings herein specified.

- (a) Administrator means the City as the appointed Administrator of the Authority.
- (b) Agreement means this Administrative Services Agreement.
- (c) Authority Board or Authority Board of Directors means the governing body of the Authority.
- (d) Authority means the Bishop Area Wastewater Authority.
- (e) City means the City of Bishop.
- (f) Effective Date means the last date on which all Parties to this Agreement have executed the Agreement.
- (g) JPA Agreement means the Joint Exercise of Powers Agreement dated June 25, 2020 by and between City and ESCSD, as may be amended from time to time.
- (h) Member Agency or Member Agencies means the City and ESCSD, and any other entity added to the JPA Agreement by a subsequent amendment.

2. **Term.** The term of this Agreement shall commence on the Effective Date and shall have a five (5) year term. The term shall automatically renew for additional five (5) year terms unless and until terminated by either Party. This Agreement may be terminated at any time by either Party giving the other Party six (6) months prior written notice. Notwithstanding the foregoing, in the event that either Party, in its sole and absolute discretion, identifies a conflict of interest arising from or related to this Agreement, that Party may terminate this Agreement upon twenty-four (24) hours written notice.

3. **Appointment of Administrator.** The Authority hereby appoints the City, acting through its governing body and/or the designee(s) of its governing body, to serve as the Administrator of the Authority. Further, the Authority retains City to provide such other administrative services as are necessary through City's staff and/or consultants to fulfill the needs and requirements of Authority, and City agrees to provide such services as may be required by the Authority upon the terms set forth below. In agreeing to serve as Administrator, the City, including its elected and appointed officials, does not relinquish, cede, transfer or otherwise subordinate to the Authority any of its powers under the California Constitution and/or state law.

4. **Duties of Administrator.** As Administrator, the City shall professionally and expeditiously perform all services reasonably necessary for the management and administration of the Authority including, but not limited to:

(a) Performing management and administrative tasks related to Authority projects and programs including, but not limited to: operating, maintaining and improving both the existing irrigation system related to the Member Agencies' wastewater treatment plants and creating a new irrigation system; acquiring and/or leasing additional land from the City of Los Angeles Department of Water and Power to increase acreage in the irrigable discharge area; designing and constructing a diversion structure to alleviate capacity concerns; pursuing grant funding and financing options for future projects; funding storage pond improvements; constructing additional monitoring wells; incorporating existing Bishop acreage into an Authority-operated discharge area; collectively interacting with regulatory agencies with oversight over both Member Agencies; and studying the consolidation of the two wastewater treatment plants; and

(b) Coordinating and preparing for Authority Board meetings (if City serves as the Authority's Secretary);

(c) Identifying key City staff that will provide services to the Authority Board and the Authority on behalf of City as the Administrator, including staff who shall serve as Treasurer, in accordance with the directions given by City's governing body or by a management employee under the exclusive control of City;

(d) Being responsible for the appointment, employment, management, and/or termination of any personnel, contractors, or consultants providing services to the Authority;

(e) Providing services as the Treasurer and Auditor/Controller of the Authority in accordance with the JPA Agreement;

(f) Performing administrative tasks related to the Authority Board's selection and appointment of the Authority Attorney;

(g) Implementing the policies, decisions, and directions of the Authority Board, as provided to City at the agency level;

(h) Obtaining and maintaining adequate insurance for the Authority and its property and operations;

(i) Coordinating and conferring with the Member Agencies' technical staff;

(j) Operating and maintaining the property of the Authority; and

(k) Any other assistance or "back-office services" reasonably requested by the Authority in connection with the administration of the Authority.

5. **Exceptions from Administrator Duties.** Notwithstanding the above, the Authority may elect to exclusively assign or delegate duties to, or to contract with, any other person or entity pursuant to a separate action or agreement to perform services that would otherwise be performed under this Agreement. In such event, City shall cease providing such services.

6. **Manner of Performing Services.**

(a) Staffing. City shall identify City staff that shall provide services required of the Administrator. Staff identified by City shall be qualified to perform services required of the Administrator. Such staff shall at all times remain under the exclusive direction and control of City. Subject to payment of quarterly service fees by the Authority as provided in Section 7 below, City shall be responsible for all compensation, supervision, and administrative costs relating to City staff. Any City staff member assigned to perform services under this Agreement, including, but not limited to, the Treasurer and Auditor/Controller, shall serve at the pleasure of City and may be removed at any time, with or without cause, in the sole discretion of City's governing body or management-level employee.

(b) City Point of Contact. A representative of City, which shall be an employee of City that is not assigned to deliver services required of City as Administrator, shall serve as the main point of contact for the Authority. Any concerns regarding City's performance as Administrator, including staff identified to perform services required of the Administrator, shall be relayed to the designated point of contact.

(c) Compliance with Laws, Rules, Regulations and Policies. City shall comply with applicable federal, state, and local laws, rules and regulations when performing the services under this Agreement, including, but not limited to, compliance with any ordinances, rules, regulations, policies, or procedures adopted by the Authority.

7. Compensation.

(a) Quarterly Service Fee. In order to compensate City for the performance of services as Administrator, the Authority shall pay City a quarterly service fee, the amount of which shall be established prior to each quarter during the Authority's fiscal year. The amount of the initial quarterly service fee shall be \$ 5000.00. The amount of the quarterly service fee may be revised based on City's projections of the cost to perform its services as Administrator in the upcoming quarter(s). The revised amount shall be set forth in a writing approved by the Authority Board and signed by the Chair of the Authority Board and City's City Administrator prior to the start of a new quarter in which the revised amount will take effect, and shall remain in effect until further revised. The Authority shall pay the quarterly service fee upon receipt of a quarterly invoice from City.

(b) Outside Expenses. For expenses incurred by City for contractors, consultants, and other outside services, materials, and supplies, City shall draw upon and expend its own funds and the Authority shall reimburse City from Authority funds upon receipt of a quarterly invoice from City. The Authority shall pay each invoice within thirty (30) days of its receipt.

(c) Limitation by Authority Budget. Quarterly service fees and reimbursable expenditures by City shall be subject to the amount(s) set forth in the Authority's adopted budget, unless such service fees and reimbursable expenditures have been otherwise approved by the Authority Board.

8. Independent Contractor. City is retained as an independent contractor and is not an employee of Authority. No employee or agent of City shall become an employee of Authority. City employees or agents assigned to provide services under this Agreement shall remain under the exclusive control of City. Without limiting the generality of the foregoing, the Authority shall not have the ability to direct how services are to be performed, specify the location where services are to be performed, or establish hours or days for the performance of services provided by City staff. The Authority shall not have any right to discharge or discipline any member of City's staff.

9. **Insurance.**

(a) During the Term of this Agreement, City shall, on behalf of itself and at its own cost, maintain insurance policies and/or self-insurance coverage in the manner and to the extent City insures and/or self-insures itself for similar risks with respect to its operations, equipment, and property. Such insurance policies and/or self-insurance coverage shall, at a minimum, meet the requirements of this section.

(b) During the Term of this Agreement, City shall also, on behalf of the Authority and at the Authority's expense, maintain insurance policies and/or self-insurance coverage for the Authority and its operations in the manner and to the extent deemed necessary and reasonable by City or as otherwise directed by the Authority Board. Such insurance policies and/or self-insurance coverage shall, at a minimum, meet the requirements of this section.

(c) The manner in which any insurance and/or self-insurance under this section is provided and the extent of such insurance and/or self-insurance shall be set forth in a Certificate of Insurance and/or Certificate of Self-Insurance, delivered to the other Party and signed by an authorized representative of the applicable Party, which fully describes the insurance and/or self-insurance program and how the insurance/program covers the risks set forth in this section. Insurance provided by a joint powers agency insurance pool shall be considered self-insurance for the purposes of this section.

(d) Coverage under insurance and/or self-insurance required under this section provide coverage for the following:

(i) Commercial general liability insurance or equivalent risk management coverage covering bodily injury, property damage, personal/advertising injury, premises/operations liability, products/completed operations liability, and contractual liability, in an amount no less than \$2,000,000 per occurrence / \$4,000,000 aggregate. The policy shall give the other Party, its officials, officers, employees, agents and designated volunteers additional insured status, or endorsements providing the same coverage. Either Party may request a mutual increase in the dollar amount of insurance required under this Section every five (5) years; the new amount shall be based on prevailing insurance standards in the wastewater industry applicable at the time.

(ii) Automobile liability insurance or equivalent risk management coverage in an amount no less than \$1,000,000 per occurrence for bodily injury and property damage. Coverage shall include owned, non-owned and hired vehicles. The policy shall give the other Party, its officials, officers, employees, agents and designated volunteers additional insured status, or endorsements providing the same coverage. Either Party may request a mutual increase in the dollar amount of insurance required under this Section every five (5) years; the new amount shall be based on prevailing insurance standards in the wastewater industry applicable at the time.

(iii) Workers' compensation insurance or equivalent risk management coverage as required by law. Each Party certifies that it is aware of the provisions of Section 3700 of the California Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and each Party will comply with such provisions before commencing work under this Agreement.

(e) In addition, City shall ensure that all contractors and subcontractors performing work on behalf of the Authority maintain in full force and effect insurance policies consistent with the

types and amounts of insurance required above, as well as other financial sureties. To the maximum extent practicable, City shall ensure that contractors' and subcontractors' Commercial General Liability and Automobile Liability policies give the Authority and its officials, officers, employees, agents, and designated volunteers additional insured status, or endorsements providing the same coverage.

10. **Indemnification.**

(a) The Authority shall defend, indemnify, and hold harmless City and its officials, officers, employees, contractors, agents, and authorized volunteers ("**City Parties**") from any and all claims, demands, damages, liabilities, fines, expenses, and related costs and fees, including attorney's fees (collectively, "**Claims**"), arising from or related to City's performance of services as the Administrator, except to the extent such Claims are caused by the sole active negligence or willful misconduct of the City Parties.

(b) City shall defend, indemnify, and hold harmless Authority and its officials, officers, employees, contractors, agents, and authorized volunteers from any and all Claims (as defined above), arising from or related to the sole active negligence or willful misconduct of any City Party or breach of this Agreement by City.

(c) The Authority and City shall reasonably cooperate in all aspects involving any defense made pursuant to this section. A Party obligated to defend and indemnify the other Party under this section shall, to the extent required herein, pay and satisfy any judgment, award or decree that may be rendered against the other Party or its directors, officials, officers, consultants, employees, agents or volunteers, in any such suit, action or other legal proceeding. A Party obligated to defend and indemnify the other Party under this section shall, to the extent required herein, reimburse the other Party and its officials, officers, employees, contractors, agents, and authorized volunteers, for any and all legal expenses and costs, including reasonable attorneys' fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. A Party's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by such Party, its directors, officials, officers, consultants, employees, agents or volunteers. This section shall survive any expiration or termination of this Agreement.

11. **General Provisions.**

(a) **Amendment.** This Agreement may be amended at any time by the written consent of the governing body of each Party hereto.

(b) **Severability.** If any section, clause or phrase of this Agreement or the application thereof to any Party or any other person or circumstance is for any reason held to be invalid by a court of competent jurisdiction, it shall be deemed severable, and the remainder of the Agreement or the application of such provisions to any other Party or to other persons or circumstances shall not be affected thereby. Each Party hereby declares that it would have entered into this Agreement, and each subsection, sentence, clause and phrase thereof, irrespective that one or more sections, subsections sentences, clauses or phrases or the application thereof might be held invalid.

(c) **Notices.** Notices required or permitted hereunder shall be sufficiently given if made in writing and delivered either personally or by registered or certified mail, postage prepaid to the respective Parties, as follows:

Authority:
Bishop Area Wastewater Authority
Attention: BAWA Administrator
PO Box 1236
Bishop CA 93515

With copy to:
Ward Simmons, BAWA General Counsel
Best Best & Krieger LLP
P.O. Box 1028
Riverside, CA 92502

City:
City of Bishop
Attention: City Administrator
PO Box 1236
Bishop CA 93515

With copy to:
Dean Pucci, City Attorney
City of Bishop
PO Box 1236
Bishop CA 93515

The Parties may from time to time change the address to which notice may be provided by providing notice of the change to the other Parties.

(d) Consent. Whenever in this Agreement or in any amendment thereto consent or approval is required, the same shall not be unreasonably withheld.

(e) Other Agreements Not Prohibited; Consistency with JPA Agreement. Other agreements by and between the Parties of this Agreement or any other entity are neither prohibited nor modified in any manner by execution of this Agreement. In the event of any conflict between this Agreement and the JPA Agreement, the JPA Agreement shall control.

(f) Section Headings. The section headings herein are for convenience of the Parties only, and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions or language of this Agreement.

(g) Laws of California. This Agreement is made in the State of California, under the Constitution and laws of such State, and shall be construed and enforced in accordance with the laws of such State.

(h) Construction of Language. It is the intention of the Parties hereto that if any provision of this Agreement is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

(i) Cooperation. The Parties recognize the necessity and hereby agree to cooperate with each other in carrying out the purposes of this Agreement.

(j) Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors of the Parties hereto.

(k) Integration. This Agreement constitutes the full and complete Agreement of the Parties.

(l) Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which together shall constitute one and the same agreement.

SIGNATURES ON FOLLOWING PAGE(S)

IN WITNESS WHEREOF, the Parties have caused this Administrative Services Agreement to be executed and attested by their proper officers thereunto duly authorized on the day and year set forth below, making the same effective on the date signed by the last of all Parties hereto.

BISHOP AREA WASTEWATER AUTHORITY

CITY OF BISHOP

By: _____
Walt Pachucki, Board Chair

By: _____
Ron Phillips, City Administrator

Date: _____

Date: _____

Approved as to Form:


Approved as to Form:

By: _____
Ward Simmons, General Counsel

By: _____
Dean Pucci, City Attorney

STAFF REPORT

To: BAWWA Board

From: Deston Dishion 

Subject: Discuss Consultant Procurement to Complete a Title 22 Engineering Report

Prepared on: October 16, 2020

Background / History:

With formation of the Bishop Area Wastewater Authority (BAWA) comes the process of obtaining necessary permits from state agencies. One such permit would be Water Reclamation Requirement or (WRR). To apply for a WRR we must first complete a Title 22 Engineering Report. This report is quite technical and time consuming. Procuring a consultant would be the most efficient way to complete the report.

Analysis/Discussion:

I have had several discussions with both the Department of Drinking Water and Lahontan staff regarding this report. After these discussions I made contact with Crestline Sanitation District who just recently completed a Title 22 Report for a water reclamation project they applied for. Crestline referred me to the consultant, Dudek Inc. who prepared the report and I made contact with them. I also contacted an engineer out of Carson City, Nevada by the name of Jonathon Lesperance who works for Lumos Inc. Jonathon has done prior work for both the City of Bishop and ESCSD. Both Dudek and Lumos provided me valuable information as to what is entailed in a Title 22 Engineering Report.


I also spoke to both firms about cost for this effort. I was given a range of \$25,000 to \$70,000. Lumos Inc. gave the lower estimate.

Due to our previous experience with Lumos Inc and Jonathon in particular I would like to try to negotiate a contract with Lumos Inc to complete a Title 22 Engineering report. If I could reach an acceptable scope, timeline and cost I would ask the Board to call a special meeting to approve a contract.

Recommendation [Action Requested]:

Direct Staff to negotiate a contract with Lumos Inc. and bring back a contract to the BAWA Board for approval at a later date.

STAFF REPORT

To: BAWWA Board
From: Deston Dishion 
Subject: Approve Fiscal Year 20/21 Interim Budget.
Prepared on: October 16, 2020

Background / History:

As part of the process of forming a Joint Powers Authority (JPA) the Bishop Area Wastewater Authority (BAWA) must establish an interim budget within 120 days of signing the agreement. 120 days from the signed agreement date is October 23, 2020.

Analysis/Discussion:

Due to the fact that this is an interim budget and this coming spring the BAWA will begin the process of establishing a budget for the 2021/2022 fiscal year, I felt it appropriate to only include the very most basic line items. With so many timeline uncertainties, such as the purchase of land from LADWP as well as design and construction of an irrigation system it is far too early to try to establish a budget for such items.

The basic line items include insurance, legal costs and funds for staff time. I also created a line item (Professional Services) to cover sampling and testing of effluent and monitoring wells.

This budget has been discussed and accepted by both Bishop City Council and the ESCSD Board.

I would like to point out that an additional item under Professional / Technical has been added which is consultant fees to complete a Title 22 Engineering Report. This report is a requirement of the California Division of Drinking Water for the BAWA to obtain a Water Reclamation Permit. The contract to complete this work could be up to \$25,000

Recommendation [Action Requested]:

Accept and approve fiscal year 20/21 Interim budget for the Bishop Area Wastewater Authority.

BAWA
20/21 Interim Budget

Discription	20/21	21/22
001 Legal Fees		
Attend Quarterly Meetings via Zoom (3 X \$825)	\$2,475.00	\$ -
Miscellaneous Legal Fees for startup	\$20,000.00	\$ -
	\$ -	\$ -
	\$ 22,475.00	\$ - \$ -
002 Insurance		
Board Errors and Omissions	\$11,000.00	\$ -
Liability	\$10,000.00	\$ -
Pollution	\$10,000.00	\$ -
	\$ -	\$ -
	\$ 31,000.00	\$ - \$ -
003 Professional Services		
Sierra Analytical Quarterly Monitor Well Samples (13 wells X \$85 X 4)	\$6,000.00	\$ -
Monthly Nitrogen (Influent and Discharge Samples)(\$125 X 4 X 12)	\$4,420.00	
Grant Writing	\$5,000.00	
Consultant Fees (Title 22 Engineering Report)	\$25,000.00	
	\$40,420.00	\$ - \$ -
004 Staff Time		
Administrator	\$20,000.00	\$ -
Finance	\$1,000.00	
Board Clerk	\$1,500.00	
	\$ 22,500.00	\$ - \$ -
Permitting Fees		
Discharge Fees	\$ 2,848.00	\$ -
	\$ -	\$ -
	\$ -	\$ -
	\$ 2,848.00	\$ -
Future Capital		
Irrigation Design	\$ 10,000.00	\$ -
	\$ 10,000.00	\$ -
	\$ -	\$ -
	\$ -	\$ -
	\$ -	\$ -
Total	\$ 129,243.00	\$ - \$ -