

Appendix J: Sample Code of Ethics and Policies for Travel Expenditures, Investments, Professional Services, and Fiscal Management

Definitions

District. The term “district” shall mean and refer to any district or authority created under either Article 3, Section 52, Subsection (b), Subdivisions (1) and (2), or Article 16, Section 59, of the Texas Constitution.

Board. The term “Board” shall mean and refer to the district’s governing body.

Director. The term “director” shall mean a person elected or appointed to serve on the district’s Board of directors.

District Officials. The term “district officials” shall mean district directors, officers, employees, and persons and business entities engaged in handling investments for the district as representatives of the district.

Employee. The term “employee” shall mean any person employed by the district, but it does not include independent contractors or professionals hired by the district as outside consultants.

Substantial Interest. The term “substantial interest” shall mean that as defined by Local Government Code Chapter 171 which regulate conflicts of interest of the district’s directors.

TWC. The acronym "TWC" shall mean the Texas Water Code.

Article I: Code of Ethics

1.01. Purpose. This code of ethics has been adopted by the _____ District to: (a) comply with TWC Section 49.199, as amended; (b) encourage high ethical standards in official conduct by district officials; and (c) establish guidelines for such ethical standards of conduct.

1.02. Policy. It is the District’s policy that the district officials shall conduct themselves in a manner consistent with sound business and ethical practices; that the public interest shall always be considered in conducting district business; that the appearance of impropriety shall be avoided to ensure and maintain public confidence in the district; and that the Board shall control and manage the District’s affairs fairly, impartially, and without discrimination, and according to the District’s purpose.

1.03. Qualification of Directors.

- A. A person shall not serve as a director if he is not qualified to do so under the provisions of the District's general laws or its enabling legislation.
- B. Under TWC Section 49.105, when there is a board vacancy, you must fill the vacancy within 60 days. Therefore, if the Board determines that a director is not qualified to serve on the Board, then your Board must replace that director with a qualified person within 60 days.
- C. Any director not qualified to serve on the Board, who willfully occupies an office, and exercises the duties and powers of that office, may be subject to penalties under the TWC, including possible conviction of a misdemeanor and imposition of a fine.

1.04. Conflicts of Interest.

- A. Local Government Code Chapter 171 addresses situations in which a conflict of interest could occur.

If a director has a substantial interest in a business entity and your Board must vote on or decide a matter that will have a special economic effect on that business entity *that is distinguishable from the effect on the public*, then the director must file an affidavit stating the nature and extent of his interest and he must abstain from further participation.

If a director has a substantial interest in real property and it is reasonably foreseeable that your Board's action on a matter will have a special economic effect on the value of the property *that is distinguishable from the effect on the public*, then the director must file an affidavit stating the nature and extent of his interest and he must abstain from further participation.

Additionally, a director may not act as a surety on any official bond or for a business entity that has work, business, or a contract with your district.

- B. The District also finds that a director must not disclose, without written legal authorization, confidential information to advance the financial or other private interests of himself or others on any contract or transaction which is or may be the subject of an official action of the District.
- C. The District may not contract for the purchase of services or personal property directly with a district official or with a business entity in which a district official has a substantial interest, except as permitted by law.
- D. The Board shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a director has a substantial interest. The director having the substantial interest may not participate in that separate vote, but may vote on a final budget if the

director has complied with Local Government Code Chapter 171 and the matter in which the director is concerned has been resolved.

1.05. Nepotism. The Board shall not confirm the appointment to any position, nor award a contract, to a person related to a member of the Board within the second degree by affinity (marriage) or within the third degree by consanguinity (blood) when the salary or other compensation of such appointee is paid, directly or indirectly, from district funds, except as provided by Government Code Chapter 573.

1.06. Acceptance of Gifts.

- A. A district official shall not solicit, accept, or agree to accept any benefit of value from a person or business entity the district official knows is interested in or likely to become interested in any contract, purchase, payment, claim, or other transaction involving the exercise of their discretion as a public servant, or any matter before the Board, or likely to come before the Board for any decision, opinion, recommendation, or vote.
- B. The prohibition against gifts or favors in section 1.06(a) shall not apply to:
 - 1. an occasional non-monetary gift, valued at less than \$25.00, or
 - 2. an award publicly presented in recognition of public service.

1.07. Use of District Property. No board member, officer, or employee shall permit any personal or unauthorized use of district-owned or district-controlled equipment, materials, supplies, or property.

Article II: Travel Expenditures Policy

2.01. Purpose. According to the limitations in TWC Section 49.060, the Board hereby establishes policies for reimbursing district directors, officers, and employees for actual travel expenses incurred while performing their official duties.

- A. Authorized expenses include cost of meals; lodging; commercial travel; in some cases, personal automobile mileage; and other necessary and reasonable costs incurred while on official business away from designated headquarters.
- B. Reimbursement for all travel expenses shall be subject to approval by the Board. The reimbursement request shall include a statement of the business purpose of the travel, date, time, and place, and shall be accompanied by supporting receipts and invoices.

2.02. Meals and Lodging. Reimbursement to directors for actual expenses for meals and lodging shall not exceed the maximum amount allowed for state legislators.

2.03. Transportation. Directors or employees who use personal vehicles while on district business travel may be reimbursed for actual miles driven at the current rate allowed by the Internal Revenue Service. Mileage will be computed by the most direct route, and the use of personal vehicles for district travel *must* be approved by Board action **in advance of the travel event**. Subject to the Board’s direction and discretion, directors or employees traveling by commercial transportation may receive reimbursement of the actual transportation cost when performing official business, with due consideration of serving the public’s best interest.

Article III. Investments

3.01. Purpose. This policy has been adopted to establish the principles and criteria by which the district’s funds should be invested and secured to: (a) preserve the principal, (b) earn interest, and (c) comply with various legal provisions on the investment and security of the district’s funds (“Investment Laws”).

3.02. Policy of Investment.

- A. The preservation of the district’s principal shall be the primary concern of the district officials who are responsible for the investment of district funds. To the extent that the principal is protected, district funds shall be invested to yield the highest possible rate of return, taking into consideration the strength of the financial institution, and complying with any laws or regulations (including arbitrage provisions) and procedures set forth in any bond resolutions or orders, adopted from time to time by the Board, requiring yield restrictions. Funds of the district shall be invested by the district’s officials according to this policy. Any resolution or order adopted by the Board on investment policies or procedures shall be in writing and shall be made available to the public.
- B. District funds shall be invested and reinvested by the district’s investment officer only in national or state banking associations or savings and loan associations located within the State of Texas (“Texas financial institutions”), or, *plus accrued interest*, invested in federal treasury bills. The principal, *plus accrued interest*, invested in financial institutions according to this policy shall not exceed the FDIC insurance limits or exceed the collateral pledged as security for the district’s investments.
- C. It shall be the responsibility of the district’s investment officer to invest and reinvest the district funds according to this policy to meet the district’s needs and requirements. It shall be the policy of the district that funds shall not remain in any given investment for longer than two years. The Board, by separate resolution, may provide that the investment officer may withdraw or transfer funds from and to the district’s accounts on such terms as the Board considers advisable. Providing however, that nothing herein above provided shall authorize any transfer, expenditure, or appropriation of district funds, other than for the district’s own

account, unless by check or draft signed by a majority of the Board or as authorized by separate Board order or resolution.

D. Funds in the district accounts shall be invested by the district's investment officer as follows:

1. *Construction or Capital Projects Account:* Funds in this account shall be invested in accordance with any applicable orders of the Texas Commission on Environmental Quality to meet the construction needs of the district as determined by the district's engineer.
2. *Debt Service Account:* Funds in this account shall be invested to meet the debt service requirements of the district and to comply with the district's bond resolutions or orders.
3. *Operating or General Account:* Funds in this account shall be invested to meet the operating requirements of the district as determined by the annual operating budget of the district, or by Board resolution.

E. Should total district funds exceed \$_____ we hereby establish an investment committee, composed of the district's investment officer, the district's financial advisor, and at least one director. The investment committee shall meet quarterly to monitor and review the investments and collateral of the district. The investment officer shall be the chairman of the committee. The committee shall report concerning the district's investments transaction for the preceding year describing the investment position of the district at the end of each fiscal year. The report shall be signed by the members of the committee. The committee also shall report to the Board on its review the month following each quarterly meeting.

3.03. Security of District Funds.

A. It shall be the policy of the district that all funds shall be insured by the FDIC or by collateral pledged to the extent of the fair market value of the amount not insured. The district officials recognize that FDIC insurance is only available *up to a maximum of \$100,000 (including accrued interest) per account* and that the amount of funds at any one Texas financial institution (including branch banks located within the same county) will be totaled to determine the maximum amount of insurance coverage needed.

B. To the extent district funds are not insured by the FDIC, there shall be pledged as collateral, to the extent of the market value thereof, any of the following securities:

1. government securities or obligations issued by the State of Texas, its agencies or political subdivisions, and approved by the Attorney

- General of Texas payable from taxes or revenues, approved by the investment committee; or,
2. direct obligations of the United States of America backed by the full faith and credit of the government; or,
 3. any other obligations or securities authorized to be collateral securing funds of districts under the laws of the State of Texas, approved by the investment committee (collectively, the “collateral”).
- C. The investment committee shall review the fair market value of the collateral pledged to secure the district’s funds on a quarterly basis to ensure that the district’s funds are fully secured. The investment committee shall report to the Board on its review the month following each quarterly meeting.
- D. There shall be no sharing or splitting of collateral with other parties or entities. The investment officer shall ensure that the custodian of the collateral shall be an independent third party Texas financial institution and that the collateral shall be pledged only to the district. The investment officer shall obtain safe-keeping receipts from the Texas financial institution.

Article IV. Professional Services Policy

4.01. Purpose. This policy has been adopted to provide for the selection, monitoring, review, and evaluation of the district’s professional services contracts. Consultants retained by the district to provide professional services include, but are not limited to, legal, engineering, financial advisor, management, bookkeeping, auditing, and tax collecting. Selection of such consultants shall be based upon their qualifications and experience.

4.02. Periodic Review. The performance of the consultants providing professional services to the district shall be regularly monitored and reviewed by the Board, and the Board may appoint a professional services committee to provide such monitoring and review to the Board.

Article V. Management Policy

5.01. Purpose. The Board desires to adopt a policy to ensure better use of management information, including the use of budgets in planning and controlling costs, the establishment of a functioning audit committee, and the use of uniform reporting requirements.

5.02. Accounting Records. District accounting records shall be prepared on a timely basis and maintained in an orderly manner, to comply with generally accepted accounting principles and the requirements of the Texas Commission on Environmental Quality. Such records shall be available for

public inspection during regular business hours (8 am - 5pm) at the district's office, located at: _____.

5.03. Audit Requirements.

- A. Unless otherwise exempted by the rules of the Texas Commission on Environmental Quality as described in 5.03(C), the district's fiscal accounts and records shall be audited annually according to state law governing the audits of districts, at the expense of the district, by a certified public accountant familiar with the Texas Commission on Environmental Quality's rules, regulations, standards, and guidelines applicable to district audits.
- B. The audit shall be completed and filed within the time limits established by the TWC. A copy of the audit shall be filed with the Texas Commission on Environmental Quality together with an annual filing affidavit in the form prescribed by TWC. In the event the Board refuses to approve the annual audited report, the district shall file a statement with the audit to explain the Board's reasons for disapproving the audit.
- C. If the district does not have sufficient revenues so that it meets the requirements of the TWC for a financially dormant or an inactive district, it may prepare and submit the financial dormancy affidavit or financial report described in the TWC instead of filing an audit report.
- D. If the district violates the TWC it may be subject to civil penalty.

5.04. Audit Committee. The Board shall establish an audit committee comprised of one or two directors and such persons as the Board may deem appropriate. The persons selected should not be directly responsible for work subject to the audit. The audit committee shall conduct, at a minimum, an annual review of the district's financial status. The committee shall monitor variances from the district's budget and shall review the district's audit report and shall make recommendations to the Board.

5.05. Budget. The district shall annually adopt a budget according to Title 30 of the Texas Administrative Code, Section 293.97 for use in planning and controlling district costs. Such budget shall take into consideration all district revenues, including, but not limited to, utility fees, taxes and surcharges, if any, and all projected district obligations and expenditures. The budget may be amended at any time but such amendment shall be approved in advance by the Board. The manager of the district may have the authority to reallocate up to 10% of any line item between budget lines, as approved by the Board.

Article VI. Miscellaneous

6.01. Gender. Any references herein to the masculine gender shall also refer to the feminine gender in all appropriate cases.

6.02. Open Meeting. The Board officially finds, determines, and declares this Code of Ethics and Policies were reviewed, carefully considered, and

adopted during a regular board meeting on _____, 20____, and that a sufficient written notice of the date, hour, place, and subject of this meeting was posted at a place convenient to the public in the administrative office of the district and on a bulletin board located at a place convenient to the public in the _____ County courthouse for the time required by law preceding this meeting, as required by the Open Meetings Act (Government Code Section 551.054), and that this meeting had been open to the public as required by law at all times during which this Code of Ethics and Policies were discussed, considered, and acted upon. The Board further ratifies, approves and confirms such written notice and the contents and posting thereof.

Adopted the _____ day of _____, 20____.

Signed the _____ day of _____, 20____.

President
Board of Directors

Vice President
Board of Directors

Secretary/Treasurer
Board of Directors

Notary Public's Signature

(Seal)