

RECORD OF PROCEEDINGS

MINUTES OF A REGULAR MEETING OF
THE BOARD OF DIRECTORS OF THE
BACA GRANDE WATER AND SANITATION DISTRICT
HELD
FEBRUARY 20, 2009

A regular meeting of the Board of Directors of the Baca Grande Water and Sanitation District (referred to hereafter as "Board") was held on Friday, the 20th day of February, 2009, at 9:00 a.m. at the offices of the District, BGWS&D Shop, 57 Baca Grant Way South, Crestone, Colorado. The meeting was open to the public.

ATTENDANCE

Directors In Attendance Were:

Christine Canaly, President
Phillip Madonna, Vice President
Vicki Matthews, Secretary/Treasurer
Lisa Cyriacks, Assistant Secretary
Parvin J. Johnson, Sr., Assistant Secretary

Also In Attendance Were:

AJ Beckman; Special District Management Services, Inc.

Jennifer Gruber Tanaka, Esq.; White, Bear and Ankele Professional Corporation

Steven Harrell; District General Manager

Olga Coello; District Administrator

See attached sign-in sheet.

DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

The Board discussed the requirements pursuant to the Colorado Revised Statutes to disclose any potential conflicts of interest or potential breaches of fiduciary duty to the Board of Directors and to the Secretary of State. Attorney Tanaka noted that conflicts were filed for applicable directors at least 72 hours prior to the meeting. President Canaly noted that a quorum was present and requested members of the Board to disclose any potential conflicts of interest with regard to any matters scheduled for discussion at this meeting.

RECORD OF PROCEEDINGS

ADMINISTRATIVE MATTERS

Agenda: Mr. Beckman reviewed the proposed agenda for the District's regular Board meeting.

Following discussion, upon motion duly made by Director Madonna, seconded by Director Matthews and, upon vote, unanimously carried, the agenda was approved, as amended.

Following the amendment to the Agenda, President Canaly requested members of the Board to disclose any potential conflicts of interest with regard to any matters scheduled for discussion at this meeting. No additional conflicts were disclosed.

Minutes: The Board reviewed the minutes of the January 15, 2009 special meeting.

Following discussion, upon motion duly made by Director Cyriacks, seconded by Director Madonna and, upon vote, unanimously carried, the Board approved the minutes of the January 15, 2009 special meeting.

The Board then reviewed the minutes of the January 16, 2009 regular meeting.

Following discussion, upon motion duly made by Director Matthews, seconded by Director Cyriacks and, upon vote, unanimously carried, the Board approved the minutes of the January 16, 2009 regular meeting.

PUBLIC COMMENT

Public Comment: Mr. Hubschwerlin addressed the Board regarding the annual System Improvement Fee. He asked if the District would continue to impose the fee since the mill levy increase in 2009 was for the purpose of system improvements. Director Cyriacks explained that the fee was imposed to pay off existing debt, and that the District is presently pursuing a bond issuance to fund additional infrastructure projects, and that the Board will review the financial status of the District and its fees and charges on an ongoing basis.

FINANCIAL MATTERS

Claims: The Board considered the approval of the payment of claims through the period ending February 20, 2009, totaling \$154,677.12.

RECORD OF PROCEEDINGS

Following discussion, upon motion duly made by Director Matthews, seconded by Director Johnson and, upon vote, unanimously carried, the Board approved the payment of claims for the period ending February 20, 2009.

Financial Statements and Schedule of Cash Position: Mr. Beckman reviewed the unaudited financial statements for the period ending January 31, 2009 and the current Cash Flow Statement dated February 19, 2009.

Following discussion, upon motion duly made by Director Madonna, seconded by Director Cyriacks and, upon vote, unanimously carried, the Board approved the unaudited financial statements for the period ending January 31, 2009 and the current Cash Flow Statement dated February 19, 2009.

Fixed Asset Inventory: Mr. Harrell distributed a revised inventory list with the Operations Report Dated February 9, 2009 and reported that the staff will continue to work on the list.

Bond Issuance: Attorney Tanaka discussed the Term Sheet provided by Vectra Bank ("Vectra") and explained that she and Mr. Beckman participated in a meeting with representatives of Vectra on February 19, 2009 at which time several revisions were discussed. She reviewed all proposed revisions and incorporated comments from the Board.

Following discussion, upon motion duly made by Director Cyriacks, seconded by Director Matthews and, upon vote, unanimously carried, the Board approved the revised term sheet subject to final review by Attorney Tanaka.

Mr. Beckman then reported to the Board that Vectra has requested a detailed cost breakdown by 1:30pm Tuesday, March 24, 2009 from the District's Engineer for the projects to be funded with Bond proceeds. Mr. Beckman discussed using bond proceeds to fund non-drinking water projects and/or projects of great urgency with bond proceeds and funding remaining projects if and when a loan from the Colorado Drinking Water Revolving Fund is acquired. The Board Directed Mr. Harrell to

RECORD OF PROCEEDINGS

work with Mr. Rogers to provide the documentation requested by Vectra.

Department of Local Affairs ("DOLA") Grants: Mr. Beckman reported that the contracts have been executed by DOLA and the District has been authorized to proceed with construction on the Well 18 and East Dream Way Projects.

Colorado Revolving Fund: Mr. Beckman reported that he has been in contact with Mr. Worker with the State of Colorado Drinking Water Revolving Fund and has received verbal assurance that the District will likely be approved for low interest funding through the program. In addition the District is expected to be approved for a grant up to \$10,000 for preparation of preliminary engineering reports.

Billing Matters: The Board discussed the following regarding recent billing matters:

Line Extension Policy: The Board discussed the current policy and directed Attorney Tanaka to draft revisions to the policy and to incorporate into a resolution for consideration by the Board.

Casita Park Restroom: The Board directed Ms. Coello to bill the Property Owners Association for the uncollected meter installation for the facility.

EQRs: The Board directed staff to review the charges to commercial and high occupancy users and report findings to the Board. The Board directed Attorney Tanaka to prepare a resolution setting forth the District's current rates, fees and charges.

Town of Crestone Billing: The Board directed Mr. Harrell to review the current cost of providing service versus the rate charged and report back to the Board.

Payment in Lieu of Taxes ("PILOT"): Attorney Tanaka reviewed a February 6, 2009 memorandum regarding this matter with the Board, which memorandum included the potential to recover funds under Section 6904 of the United States Code.

RECORD OF PROCEEDINGS

Following discussion, upon motion duly made by Director Madonna, seconded by Director Cyriacks and, upon vote, unanimously carried, the Board directed Attorney Tanaka to send correspondence to Saguache County on behalf of the Board requesting 6904 revenues for federal lands located within the District's boundaries.

Baca Grande Volunteer Fire Department: The Board discussed the request by the Baca Grande Volunteer Fire Department regarding non-metering for training exercises.

Following discussion, upon motion duly made by Director Madonna, seconded by Director Cyriacks and, upon vote, unanimously carried, the Board determined not to require metering for training exercises and Directed Attorney Tanaka to prepare an agreement regarding fire hydrant maintenance between the District and the Baca Grande Property Owners Association.

LEGAL MATTERS

Report by Attorney Schwiesow: Everhart Suit. Mr. Beckman reported that nothing new has been reported by Attorney Schwiesow, and that he will follow up with Attorney Schwiesow to request an update.

District Water Rights. Attorney Tanaka reported that she would follow up with Attorney Schwiesow on this matter. Director Canaly reported that she has been referred to other attorneys in the area specializing in water rights. Director Canaly will provide additional information at the next meeting.

Briseis Capital Corporation for the Acquisition of Well Site 18 Property and Access Road Easement: Attorney Tanaka reported on the status of negotiations with Mr. Ireland. Mr. Ireland has expressed that six water taps for consideration for the deeded property would be acceptable. Also, he is not requiring consideration for the water line easement that currently runs through his property and that will be incorporated into his easement. Attorney Tanaka further reported that she will include a provision in the agreement to include the parcel owned by Mr. Ireland into the District prior to conveyance to a third party, or the payment of out-

RECORD OF PROCEEDINGS

of-District rates for service if not included. Colorado College has expressed its willingness pay for half of the survey work necessary for the legal description of the access road. It will be necessary to have a survey for the parcel and access road performed as soon as possible in order to finalize the agreement.

Proposal for survey of Well Site 18 and road access areas. The Board discussed the proposal for surveying of the Well Site 18 and road access areas.

Following discussion, upon motion duly made by Director Matthews, seconded by Director Johnson and, upon vote, unanimously carried, the Board approved the engagement of a surveyor for Well Site 18 and road access areas upon final approval by Mr. Harrell.

Easement for Road Access. Discussion was deferred.

Rules and Regulations: Attorney Tanaka reported that she has sent a draft copy to Mr. Harrell, Mr. Rogers and Mr. Beckman for review and comment. Attorney Tanaka noted that the sewer section needs to be updated more by her as well. Once all comments are incorporated the document will be presented to the Board for review and consideration.

Manitou Foundation Property: EXECUTIVE SESSION: Pursuant to Section 24-6-402(4)(b) of the Colorado Revised Statutes, upon motion duly made by Director Cyriacks, seconded by Director Madonna and, upon an affirmative vote of at least two-thirds of the quorum present, the Board convened in executive session at 3:15 p.m. for the sole purpose of discussing legal matters and negotiations as authorized by Sections 24-6-402 (4)(b) and 24-6-402 (4)(e) C.R.S.

Furthermore, pursuant to Section 24-6-402(2)(d.5) (II)(B), C.R.S., no record will be kept of those portions of the executive session that, in the opinion of the District's attorney, constitute privileged attorney-client communication pursuant to Section 24-6-402(4)(b), C.R.S.

The Board reconvened in regular session at 3:50 p.m.

RECORD OF PROCEEDINGS

The Board determined not to request participation from the Manitou Foundation for payment of the survey of the improvements and boundaries in the vicinity of the Cottonwood Treatment Plant. The Board Directed Mr. Harrell to contact residents affected by the East Dream Way Project to let them know they will be required to use alternate access while the project is underway and request that they execute a waiver of liability on behalf of Manitou Foundation.

Proposal for Survey of Cottonwood Plant property. The Board discussed the proposal for surveying of the Cottonwood Plant property.

Following discussion, upon motion duly made by Director Madonna, seconded by Director Johnson and, upon vote, unanimously carried, the Board approved the proposal for Surveying Services from Billy Vigil in an amount not-to-exceed \$1,200.00.

Resolution No. 2009-02-01 Regarding Identity Theft Protection Program: The Board discussed Resolution No. 2009-02-01 Regarding Identity Theft Protection Program. The Board also discussed the resolution and procedures for records retention and destruction. The Board directed Mr. Harrell to inventory customer records and to present a list for Board approval of those recommended for destruction. The Board directed Attorney Tanaka to provide statutory guidelines for records retention of certain documents, particularly credit card receipts.

Following discussion, upon motion duly made by Director Johnson, seconded by Director Cyriacks and, upon vote, unanimously carried, the Board adopted Resolution No. 2009-02-01 Regarding Identity Theft Protection Program. A copy of the adopted Resolution is attached hereto and incorporated herein by this reference.

Resolution No. 2009-02-02 Regarding Paid Time Off Policy: The Board discussed Resolution No. 2009-02-02 Regarding Paid Time Off Policy.

Following discussion, upon motion duly made by Director Cyriacks, seconded by Director Matthews and, upon vote, unanimously carried, the Board adopted Resolution No. 2009-02-02 Regarding Paid Time Off Policy, as

RECORD OF PROCEEDINGS

amended. A copy of the adopted Resolution is attached hereto and incorporated herein by this reference.

Distribution of literature by members of the public:
EXECUTIVE SESSION: Pursuant to Section 24-6-402(4)(b) of the Colorado Revised Statutes, upon motion duly made by Director Cyriacks, seconded by Director Madonna and, upon an affirmative vote of at least two-thirds of the quorum present, the Board convened in executive session at 3:15 p.m. for the sole purpose of discussing legal matters as authorized by Section 24 - 6-402 (4)(b) C.R.S.

Furthermore, pursuant to Section 24-6-402(2)(d.5)(II)(B), C.R.S., no record will be kept of those portions of the executive session that, in the opinion of the District's attorney, constitute privileged attorney-client communication pursuant to Section 24-6-402(4)(b), C.R.S.

The Board reconvened in regular session at 3:50 p.m.

The Board directed Mr. Beckman to specify to all vendors proposing purification or treatment systems, that, as a precondition of review by the Board, all vendors will be required to demonstrate compliance with all applicable State and Federal regulations for such systems.

Final Cost Allocation for and acceptance of Dharma Ocean Main Line Extension: Mr. Beckman reviewed the revised cost share agreement and noted that Dharma Ocean is willing to receive payment in two parts which greatly improves the District's cash position through March. He also noted that the amount owed to the District by White Jewell Mountain is \$13,195.70 and, pursuant to the cost share agreement, this amount is to be paid by July 31, 2011.

Following discussion, upon motion duly made by Director Madonna, seconded by Director Matthews and, upon vote, unanimously carried, the Board approved the final cost allocation for and acceptance of the Dharma Ocean Main Line Extension, subject to receipt of Certification by the District Engineer regarding construction to the District's standards and appropriate bill of sale from Dharma Ocean.

RECORD OF PROCEEDINGS

Correspondence regarding public access to the road through the property at 4322 Tranquil Way: The Board discussed correspondence from Katherine Teahen regarding public access to the road through the property at 4322 Tranquil Way.

Following discussion, the Board directed Mr. Harrell to coordinate placement of boulders on the access road to restrict access.

Survey for District Boundary Map: The Board discussed the necessity for survey of the District Boundaries.

Following discussion, the Board Directed Mr. Harrell to obtain three bids for a survey of the District's boundaries and creation of a legal description and map in compliance with the standards required by the Division of Local Government ("DLG"). The Board requested that the proposals separate out the price for staking, if such staking is required. Attorney Tanaka will provide the DLG standards to Mr. Harrell.

OPERATIONS

Operations Manager Report: The Board reviewed the Report on Operations dated February 2009 provided by Mr. Harrell, which report is attached hereto and incorporated herein by this reference.

Correspondence from the State of Colorado Division of Water Resources to the U.S. Fish and Wildlife Service: Mr. Beckman reviewed with the Board the correspondence and the deadline imposed by the Division of Water Resources to abandon the well and decommission Old Well 18 by March 31, 2009. Mr. Harrell reported that decommissioning Old Well 18 will be performed by the District's Operations Staff, and that Prior to decommissioning the Old Well 18 it will be necessary to make improvements to the new well. Mr. Beckman reported that improvements to the new well are part of the DOLA grant contract and are subject to matching grant funds.

Following discussion, upon motion duly made by Director Cyriacks, seconded by Director Madonna and, upon vote, unanimously carried, the Board directed Mr. Harrell to

RECORD OF PROCEEDINGS

decommission Old Well 18 prior to April 1, 2009.

Dharma Ocean Waste Water Line and Improvements: Mr. Beckman reported that the work is complete; however prior to acceptance by the District of the improvements, the District's Engineer must provide correspondence certifying that the construction is in compliance with District standards. Mr. Beckman has requested the certification from Mr. Rogers, with Brown and Caldwell.

Preliminary Engineering review for 2009 Wastewater Projects: The Board determined not to proceed with preliminary engineering review for 2009 wastewater projects.

Mobile Home Lagoon System: Mr. Beckman reported that he and Mr. Rogers are in the process of coordinating a meeting with representatives of the Colorado Department of Health and Environment ("CDPHE") regarding past violations and, to discuss the District's plans to decommission the lagoon and connect to the Aspen Treatment Facility.

Well 18 Project: Mr. Harrell reviewed and discussed the proposal from Irrigation Engineering in the amount of \$28,569 for installation of a new pump, variable speed drive, and associated plumbing. Mr. Harrell noted that there will be additional costs for electrical work which he estimates not to exceed \$1,200. Attorney Tanaka discussed the requirements of the District Construction contract and recommended that the Board require a payment and performance bond and a two-year warranty.

Mr. Harrell explained that the work will require the pump to be inoperable for one to three days and that prior to the outage the reservoirs on the distribution system will be filled to capacity and residents will be notified through a comprehensive program of written and verbal communication. Mr. Harrell distributed a draft notice for review.

Following discussion, upon motion duly made by Director Matthews, seconded by Director Madonna and, upon vote, unanimously carried, the Board approved the engagement of Irrigation Engineering subject to execution of the

RECORD OF PROCEEDINGS

District's Construction Contract and contingent upon the Contractor obtaining a Payment and Performance Bond and providing a two-year warranty with the total contract amount not to exceed \$30,000.

Following discussion, upon motion duly made by Director Matthews, seconded by Director Madonna and, upon vote, unanimously carried, the Board approved the engagement of electrical contractor for an amount not to exceed \$1,200, subject to execution of the District's independent contractor agreement by the Contractor and upon final selection of the Contractor by Mr. Harrell.

Compliance of Aspen Plant: Mr. Beckman reported that he and Mr. Rogers are in the process of coordinating a meeting with representatives of the Colorado Department of Health and Environment ("CDPHE") to discuss past violations and the District's plans to improve the facility and explain the commitment of the new management and staff to operate according to all applicable state regulations.

Website Reconstruction: Mr. Harrell reported that the new website is nearly operational and requested review of posted Resolutions by Attorney Tanaka. Attorney Tanaka will review the website.

Brown and Caldwell Task Order Nos. 1-3: Mr. Beckman reviewed the Task Orders with the Board.

Following discussion, upon motion duly made by Director Cyriacks, seconded by Director Johnson and, upon vote, unanimously carried, the Board approved Task Order No. 1 by Brown and Caldwell for Operations Services for 2009 in the estimate annual amount of \$60,000, and Task Order No. 3 by Brown and Caldwell for Drinking Water SRF Support in the amount of \$15,000.

First and Second Addendum to Master Services Agreement incorporating Amendment 54 provisions. The Board discussed the First and Second Addenda to the Master Services Agreement with Brown and Caldwell for Ongoing Consulting and Engineering Services.

Following discussion, upon motion duly made by Director Cyriacks, seconded by Director Madonna and, upon vote, unanimously carried, the Board approved the First and

RECORD OF PROCEEDINGS

Second Addenda to the Master Services Agreement with Brown and Caldwell for Ongoing Consulting and Engineering Services.

Contractor for Operator in Responsible Charge: Mr. Beckman explained that due to the emergent situation with Well 18 he asked Mr. Harrell not to pursue hiring an additional employee until cash flow issues could be resolved. The Board reviewed the February 19 cash flow analysis and directed Mr. Harrell to resume hiring efforts and to run appropriate advertisements for the full time Utility Maintenance Worker with appropriate licensure to perform the duties of Operator in Responsible Charge.

Water pressure at Aldelyunas residence: Mr. Harrell reported that staff has performed work which has improved the water pressure and will wait to receive feedback from Ms. Aldelyunas.

Correspondence from the Colorado Department of Public Health and Environment: Mr. Beckman reviewed the correspondence with the Board.

Position Description of Utility Maintenance Field Technician Level II: Discussion was deferred.

Correspondence from Mr. Beard: The Board reviewed and discussed correspondence from Mr. Beard regarding problems with his service line. The Board directed Mr. Harrell to request correspondence from Mr. Beard clarifying his request.

Correspondence from William and Tracy Joyce: The Board reviewed and discussed correspondence from William Joyce regarding his request for reimbursement for costs incurred for sewage backup.

Following discussion the Board directed Mr. Harrell to request from Mr. Joyce any evidence of approval regarding the construction of the improvements. Without such evidence, the Board will not be in a position to reimburse for maintenance of repairs.

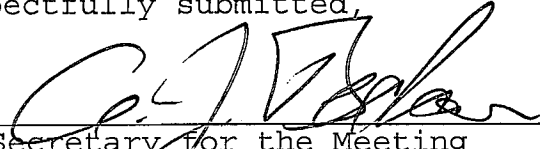
RECORD OF PROCEEDINGS

ADJOURNMENT

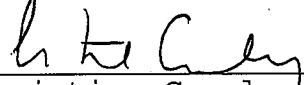
There being no further business to come before the Board at this time, upon motion duly made and seconded and, upon vote, unanimously carried, the meeting was adjourned.

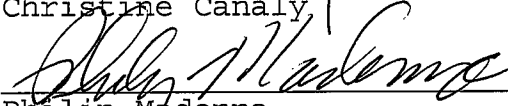
Respectfully submitted,

By


Secretary for the Meeting

THESE MINUTES ARE APPROVED AS THE OFFICIAL
FEBRUARY 20, 2009 MINUTES OF THE BACA GRANDE WATER AND
SANITATION DISTRICT BY THE BOARD OF DIRECTORS SIGNING
BELOW:


Christine Canaly


Philip Madonna


Vicki Matthews


Lisa Cyriacks

Parvin J. Johnson, Sr.

BACA GRANDE WATER & SANITATION DISTRICT

February 20, 2009

Please **print** your name, address and phone number and the issue(s) you are interested in addressing at this meeting.

[illegible]

RESOLUTION NO. 2009-2-01

RESOLUTION
OF THE BOARD OF DIRECTORS OF THE
BACA GRANDE WATER AND SANITATION DISTRICT

ADOPTING AN IDENTITY THEFT PREVENTION PROGRAM

WHEREAS, Baca Grande Water and Sanitation District ("District") is a quasi-municipal corporation and political subdivision of the State of Colorado and a duly organized and existing special district pursuant to Title 32, Colorado Revised Statutes; and

WHEREAS, pursuant to federal law, the Federal Trade Commission adopted regulations requiring the creation of certain policies relating to the detection, prevention and mitigation of identity theft ("Identity Theft Rules"); and

WHEREAS, the Identity Theft Rules, adopted as 16 CFR § 681.2, require creditors, as defined by 15 U.S.C. § 1681a(r)(5), to adopt red flag policies to prevent and mitigate identity theft with respect to covered accounts; and

WHEREAS, 15 U.S.C. § 1691a, which defines a 'Creditor' as a person who extends, renews or continues credit, and defines 'Credit' in part as the right to purchase property or services and defer payment therefor; and

WHEREAS, the District is a creditor under the Identity Theft Rules by virtue of providing utility services or by otherwise accepting payment for services in arrears; and

WHEREAS, the Identity Theft Rules define "Covered Account" in part as an account that a creditor provides for personal, family or household purposes that is designed to allow multiple payments or transactions and specifies that a utility account is a covered account; and

WHEREAS, District provides water and sanitary sewer services for which payment is made after the product is consumed or the service has otherwise been provided and, therefore, is subject to the Identity Theft Rules.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE DISTRICT AS FOLLOWS:

Section 1. Adoption of Identity Theft Prevention Program. The District hereby adopts the Identity Theft Prevention Program set forth in **Exhibit A**, attached hereto and incorporated herein.

Section 2. Preambles Incorporated. The preambles to this Resolution are hereby incorporated into this Resolution as if set out fully herein.

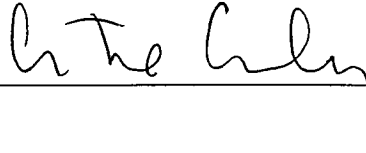
Section 3. Severability. If any part, section, subsection, sentence, clause or phrase of this Resolution is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining provisions.

Section 4. Effective Date. This Resolution become effective as of February 20, 2009, shall be enforced immediately thereafter and shall supersede any previous policy related to identity theft. This Resolution shall be implemented and administered by the District to conform with all requirements of the Identity Theft Rules, as modified from time to time.

[Remainder of Page Intentionally Left Blank].

APPROVED AND ADOPTED THIS 10th DAY OF FEBRUARY 2009.

BACA GRANDE WATER AND SANITATION
DISTRICT

A handwritten signature in cursive script, appearing to read "L. The C. C. C.", written over a horizontal line.

President

ATTEST:


A handwritten signature in cursive script, reading "Vicki Matthews", written over a horizontal line.

EXHIBIT A

IDENTITY THEFT PREVENTION PROGRAM

The purpose of the Identity Theft Prevention Program is to comply with 16 CFR § 681.2 in order to detect, prevent and mitigate identity theft by identifying and detecting identity theft red flags and responding to such red flags in a manner that will prevent identity theft.

Section 1. Definitions. For purposes of this Program, the following definitions apply to the following terms, whether or not capitalized herein:

(1) "Covered account" means:

(a) an account that the District offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a utility account; and

(b) any other account that the District offers or maintains for which there is a reasonably foreseeable risk to customers or to the safety and soundness of the District from identity theft including financial, operational, compliance, reputation, or litigation risks.

(2) "Credit" means the right granted by the District to a debtor to defer payment of debt or to incur debts and defer its payment or to purchase property or services and defer payment therefore.

(3) "Creditor" means the District.

(4) "Customer" means a person that has a covered account with the District.

(5) "District" means the Baca Grande Water and Sanitation District.

(6) "Identity theft" means a fraud committed or attempted using identifying information of another person without authority.

(7) "Person" means a natural person, a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, or association.

(8) "Personal Identifying Information" means a person's credit card account information, debit card information, bank account information and drivers' License information and for a natural person includes their social security number, mother's birth. name, and date of birth.

(9) "Red flag" means a pattern, practice, or specific activity that indicates the possible existence of identity theft.

(10) "Service provider" means a person that provides a service directly to the District.

Section 2. Findings

(1) The District is a creditor pursuant to 16 CFR § 681.2 due to its provision or maintenance of covered accounts for which payment is made in arrears.

(2) Covered accounts offered to customers for the provision of District services include water and sanitary sewer services.

(3) The District's previous experience with identity theft related to covered accounts is as follows:

(a) None.

(4) The processes of opening a new covered account, restoring an existing covered account, and making payments on such accounts have been identified as potential processes in which identity theft could occur.

(5) The District limits access to personal identifying information of its customers to those employees responsible for or otherwise involved in opening or restoring covered accounts or accepting payment for use of covered accounts. Information provided to such employees is entered directly into the District's computer system and is not otherwise recorded.

(6) The District determines that there is a low risk of identity theft to its customers occurring in the following ways (if any):

(a) Use by an applicant of another person's personal identifying information to establish a new covered account;

(b) Use of a previous customer's personal identifying information by another person in an effort to have service restored in the previous customer's name;

(c) Use of another person's credit card, bank account, or other method of payment by a customer to pay such customer's covered account or accounts;

(d) Use by a customer desiring to restore such customer's covered account of another person's credit card, bank account, or other method of payment.

Section 3. Process of Establishing a Covered Account

(1) As a precondition to opening a covered account in the District, each applicant shall provide the District with the following personal identifying information of the customer: a valid government issued identification card containing a photograph of the customer or, for customers who are not natural persons, a photograph of the customer's agent opening the account. Such information shall be entered directly into the District's computer system and shall not otherwise be recorded.

(2) Each account shall be assigned a customer account number and personal identification number ("PIN") which shall be unique to that account. The District may utilize computer software to randomly generate assigned PINs and to encrypt account numbers and PINs.

Section 4. Access to Covered Account Information

(1) Access to customer accounts shall be password protected and shall be limited to authorized District personnel.

(2) Such password(s) shall be changed by the manager of the department providing the service for which the covered account is created on a regular basis, shall be at least 8 characters in length and shall contain letters, numbers and symbols.

(3) Any unauthorized access to or other breach of customer accounts is to be reported immediately to the District Manager and the password changed immediately.

(4) Personal identifying information included in customer accounts is considered confidential and any request or demand for such information shall be immediately forwarded to the District Manager.

Section 5. Credit Card Payments

(1) In the event that credit card payments that are made over the Internet are processed through a third party service provider, such third party service provider shall certify that it has an adequate identity theft prevention program in place that is applicable to such payments.

(2) All credit card payments made over the telephone or the District's website shall be entered directly into the customer's account information in the computer data base.

(3) Customer account statements and receipts for covered accounts shall include only the last four digits of the credit or debit card or the bank account used for payment of the covered account.

Section 6. Sources and Types of Red Flags

All employees responsible for or involved in the process of opening a covered account, restoring a covered account, or accepting payment for a covered account, shall check for red flags as indicators of possible identity theft. Such red flags include:

(1) Alerts from consumer reporting agencies, fraud detection agencies or service providers. Examples of alerts include but are not limited to:

(a) A fraud or active duty alert that is included with a consumer report;

- (b) A notice of credit freeze in response to a request for a consumer report;
- (c) A notice of address discrepancy provided by a consumer reporting agency;
- (d) Indications of a pattern of activity in a consumer report that is inconsistent with the history and usual pattern of activity of an applicant or customer, such as:
 - (i) A recent and significant increase in the volume of inquiries; or
 - (ii) An unusual number of recently established credit relationships; or
 - (iii) A material change in the use of credit, especially with respect to recently established credit relationships; or
 - (iv) An account that was closed for cause or identified for abuse of account privileges by a financial institution or creditor.

(2) Suspicious documents. Examples of suspicious documents include, but are not limited to:

- (a) Documents provided for identification that appears to be altered or forged; or
- (b) Identification on which the photograph or physical description is inconsistent with the appearance of the applicant or customer; or
- (c) Identification on which the information is inconsistent with information provided by the applicant or customer; or
- (d) Identification on which the information is inconsistent with readily accessible information that is on file with the financial institution or creditor, such as a signature card or a recent check; or
- (e) An application that appears to have been altered or forged, or appears to have been destroyed and reassembled.

(3) Suspicious personal identification, such as suspicious address change. Examples of suspicious identifying information include:

- (a) Personal identifying information that is inconsistent with external information sources used by the financial institution or creditor. For example:
 - (i) The address does not match any address in the consumer report; or
 - (ii) The Social Security Number ("SSN") has not been issued, or is listed on the Social Security Administration's Death Master File; or

(b) Personal identifying information provided by the customer is not consistent with other personal identifying information provided by the customer, such as a lack of correlation between the SSN range and date of birth; or

(c) Personal identifying information or a phone number or address is associated with known fraudulent applications or activities as indicated by internal or third-party sources used by the District; or

(d) Other information provided, such as fictitious mailing address, mail drop addresses, jail addresses, invalid phone numbers, pager numbers or answering services, is associated with fraudulent activity; or

(e) The SSN provided is the same as that submitted by other applicants or customers; or

(f) The address or telephone number provided is the same as or similar to the account number or telephone number submitted by an unusually large number of applicants or customers; or

(g) The applicant or customer fails to provide all required personal identifying information on an application or in response to notification that the application is incomplete; or

(h) Personal identifying information is not consistent with personal identifying information that is on file with the District; or

(i) The applicant or customer cannot provide authenticating information beyond that which generally would be available from a wallet or consumer report; or

(4) Unusual use of or suspicious activity relating to a covered account. Examples of suspicious activity include:

(a) Shortly following the notice of a change of address for an account, District receives a request for the addition of authorized users on the account; or

(b) A new revolving credit account is used in a manner commonly associated with known patterns of fraud patterns. For example:

(i) The customer fails to make the first payment or makes an initial payment but no subsequent payments.

(c) An account is used in a manner that is not consistent with established patterns of activity on the account. There is, for example:

(i) Nonpayment when there is no history of late or missed payments;

(ii) A material change in purchasing or spending patterns;

(d) An account that has been inactive for a long period of time is used (taking into consideration the type of account, the expected pattern of usage and other relevant factors).

(e) Mail sent to the customer is returned repeatedly as undeliverable although transactions continue to be conducted in connection with the customer's account; or

(f) The District is notified that the customer is not receiving paper account statements; or

(g) The District is notified of unauthorized charges or transactions in connection with a customer's account; or

(h) The District is notified by a customer, law enforcement or another person that it has opened a fraudulent account for a person engaged in identity theft.

(5) Notice from customers, law enforcement, victims or other reliable sources regarding possible identity theft or phishing relating to covered accounts.

Section 7. Prevention and Mitigation of Identity Theft.

(1) In the event that any District employee responsible for or involved in restoring an *existing* covered account or accepting payment for a covered account becomes aware of red flags indicating possible identity theft with respect to existing covered accounts, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the District Manager. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to the District Manager, who may in his or her discretion determine that no further action is necessary. If the District Manager in his or her discretion determines that further action is necessary, a District employee shall perform one or more of the following responses, as determined to be appropriate by the District Manager:

(a) Contact the customer;

(b) Make the following changes to the account if, after contacting the customer, it is apparent that someone other than the customer has accessed the customer's covered account:

(i) change any account numbers, passwords, security codes, or other security devices that permit access to an account; or

(ii) close the account;

(c) Cease attempts to collect additional charges from the customer and decline to sell the customer's account to a debt collector in the event that the customer's account has been accessed without authorization and such access has caused additional charges to accrue;

(d) Notify a debt collector within [select time frame, for example, 24 hours] of the discovery of likely or probable identity theft relating to a customer account that has been sold to such debt collector in the event that a customer's account has been sold to a debt collector prior to the discovery of the likelihood or probability of identity theft relating to such account;

(e) Notify law enforcement, in the event that someone other than the customer has accessed the customer's account causing additional charges to accrue or accessing personal identifying information; or

(f) Take other appropriate action to prevent or mitigate identity theft.

(2) In the event that any District employee responsible for or involved in opening a new covered account becomes aware of red flags indicating possible identity theft with respect an application for a new account, such employee shall use his or her discretion to determine whether such red flag or combination of red flags suggests a threat of identity theft. If, in his or her discretion, such employee determines that identity theft or attempted identity theft is likely or probable, such employee shall immediately report such red flags to the District Manager. If, in his or her discretion, such employee deems that identity theft is unlikely or that reliable information is available to reconcile red flags, the employee shall convey this information to the District Manager, who may in his or her discretion determine that no further action is necessary. If the District Manager in his or her discretion determines that further action is necessary, a District employee shall perform one or more of the following responses, as determined to be appropriate by the District Manager:

(a) Request additional identifying information from the applicant;

(b) Deny the application for the new account;

(c) Notify law enforcement of possible identity theft; or

(d) Take other appropriate action to prevent or mitigate identity theft.

Section 8. Updating the Program

The Board of Directors shall annually review and, based upon recommendations of the District Manager, update the Identity Theft Prevention Program along with any relevant red flags in order to reflect changes in risks to customers or to the safety and soundness of the District and its covered accounts from identity theft. In so doing, the Board shall consider the following factors and exercise its discretion in amending the program:

- (a) The District's experiences with identity theft;
- (b) Updates in methods of identity theft;
- (c) Updates in customary methods used to detect, prevent, and mitigate identity theft;
- (d) Updates in the types of accounts that the District offers or maintains; and
- (e) Updates in service provider arrangements.

Section 9. Program Administration

The District's Senior Level Staff in charge of billing is responsible for oversight of the program and for program implementation. The District Manager is responsible for reviewing reports prepared by staff regarding compliance with red flag requirements and with recommending material changes to the program, as necessary in the opinion of the District Manager, to address changing identity theft risks and to identify new or discontinued types of covered accounts. Any recommended material changes to the program shall be submitted to the Board of Directors for consideration by the Board.

(a) The Senior Level Staff will report to the District Manager at least annually, on compliance with the red flag requirements. The report will address material matters related to the program and evaluate issues such as:

- (i) The effectiveness of the policies and procedures of the District in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;
- (ii) Service provider arrangements;
- (iii) Significant incidents involving identity theft and management's response; and
- (iv) Recommendations for material changes to the Program.

(2) The Senior Level Staff is responsible for providing training to all employees responsible for or involved in opening a new covered account, restoring an existing covered account or accepting payment for a covered account with respect to the implementation and requirements of the identity Theft Prevention Program. The Senior Level Staff shall exercise his or her discretion in determining the amount and substance of training necessary.

Section 10. Outside Service Providers

In the event that the District engages a service provider to perform an activity in connection with one or more covered accounts, the Senior Level Staff shall exercise his or her discretion in reviewing such arrangements in order to ensure, to the best of his or her ability, that the service provider's activities are conducted in accordance with policies and procedures, agreed upon by contract, that are designed to detect any red flags that may arise in the performance of the service provider's activities and take appropriate steps to prevent or mitigate identity theft.

RESOLUTION NO. 2009-2-32

RESOLUTION
OF THE BOARD OF DIRECTORS
OF THE
BACA GRANDE WATER AND SANITATION DISTRICT

ADOPTING A POLICY REGARDING PAID TIME OFF

WHEREAS, the Baca Grande Water and Sanitation District (the "District") was duly organized and validly exists pursuant to and in accordance with the Special District Act, §§ 32-1-101, *et seq.*, C.R.S.; and

WHEREAS, pursuant to § 32-1-1001(1)(m), C.R.S., the Board of Directors of the District (the "Board") is empowered to adopt, amend and enforce bylaws and rules and regulations not in conflicts with the Colorado Constitution for the purpose of carrying on the business, objects and affairs of the Board and of the District; and

WHEREAS, the Board desires to adopt a policy regarding paid time off for employees.

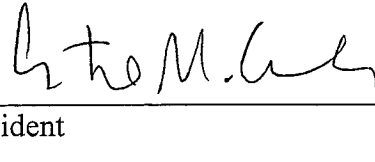
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE BACA GRANDE WATER AND SANITATION DISTRICT AS FOLLOWS:

1. ADOPTION OF POLICY. The Board hereby adopts the policy regarding the paid time off for employees forth in **Exhibit A**, attached hereto and incorporated herein by this reference (the "Policy"). In the event anything contained in the Policy conflicts with any provision of Colorado law, such conflicting provision shall be deemed null and void.

[Remainder of Page Intentionally Left Blank].

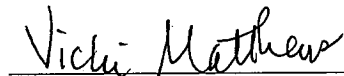
APPROVED AND ADOPTED THIS 20th DAY OF FEBRUARY 2009.

BACA GRANDE WATER AND
SANITATION DISTRICT



President

ATTEST:



Secretary