

DISTRICT BYLAWS

1. **LEGAL STATUS.** The East Boulder County Water District is a water district organized pursuant to Title 32 of the statutes of the State of Colorado. It is a special district which provides treated water for domestic and other purposes.

2. **BOARD OF DIRECTORS.** All powers, privileges and duties vested in, or imposed upon the East Boulder County Water District (hereinafter referred to as "District") by law shall be exercised and performed by and through the Board of Directors (hereinafter referred to as "Board"), whether set forth specifically or impliedly in these bylaws.

3. **OFFICES.** The administrative offices of the District shall be at 996 Paragon Drive, Boulder, Colorado, unless otherwise designated by the Board. The Board shall meet at St. Ambrose Episcopal Church, 7520 South Boulder Road, Boulder, Colorado. The Board, by resolution, may from time to time, designate, locate and relocate its administrative and Board meeting locations as, in its judgment, are necessary to conduct the business of the District.

4. **MEETINGS.**

4.1 **Regular Meetings.** Regular meetings of the Board shall be held on the third Monday of each month at 4:00 p.m.

4.2 **Meetings to be Public.** All meetings of the Board, other than executive sessions, shall be open to the public. Upon the affirmative vote of two-thirds of the quorum then present, the Board may hold an executive session only at any regular or special meeting and solely for the purpose of considering any of the following matters, (except that no formal action by way of adoption of any resolution, rule, regulation or policy position shall occur in executive session):

- a. the consideration of the purchase, sale, lease, etc. of real and personal property and related matters;
- b. conferences with legal counsel for the purposes of receiving legal advice on a specific legal question;
- c. matters required to be kept confidential by federal or state law;
- d. details of security arrangements or investigations;
- e. determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators;
- f. personnel matters [except if the employee who is the subject of the session has requested an open meeting] and;
- g. consideration of documents protected by mandatory nondisclosure provisions of the Colorado Open Records Act;

4.3 **Notice of Meetings.** These bylaws shall constitute formal notice of regular meetings to Board members, and no other formal notice shall be required to be given to the directors, other than the permanent and temporary postings as required by law, including the requirement for posting of a notice 24 hours in advance at the designated location together with the proposed agenda.

4.4 **Special Meetings.** Special meetings of the Board may be called upon three days notice, which shall be posted in three places within the District and at the offices of the Clerk and Recorder of Boulder County and delivered to each Director and a notice posted twenty four hours in advance at the Board's designated location.

5. **CONDUCT OF BUSINESS.**

5.1 **Quorum.** All official business of the Board shall be transacted at a regular or special meeting at which a quorum (i.e., three) of the Directors shall be present, except as provided in Section 5.2. Directors must be physically present for purposes of determining whether a quorum is present.

5.2 **Voting Requirements.**

a. Any action of the Board shall require the affirmative vote of a majority of the Directors present and voting. When special or emergency circumstances materially affecting the affairs of the District or the health, welfare, and safety of District residents and property owners so dictate, then those Directors available at the time may undertake whatever emergency action is considered necessary and may so instruct the District's employees. Ratification of the action so taken shall be entered on the minutes at the next meeting of the Board.

b. Votes on motions, resolutions, and orders shall be taken by the Chairman stating "*All in favor, say Aye*" and "*All opposed, say No*" or other similar language at the discretion of the Chairman and which shall indicate the manner of responding to the question. Roll call votes may be taken at the request of any director, or at the direction of the Chairman. Voting for the election of officers may be conducted by secret ballot at the discretion of the Board.

5.3 **Order of Business.** The business of all regular meetings of the Board shall be transacted, as far as practicable, in the following general order, subject to modification, including additions and deletions approved by the Board:

- 1) Roll call of members;
- 2) Public comments;
- 3) Reading and approval of the minutes of the previous meeting;
- 4) Election matters, if any, and election of board officers, at biennial

meeting;

- 5) Approval of bills and appropriations as may be required by special appropriation or action;
- 6) Public hearings, if any;
- 7) Reports from consultants and committees;
- 8) Unfinished or old business;
- 9) New business;
- 10) Directors' comments and other matters to come before the Board;
- 11) Announcements;
- 12) Adjournment.

5.4 Motions, Resolutions, or Orders. Actions of the Board necessary for the governing and management of the affairs of the District, for the execution of the powers vested in the District, and for carrying into effect the provisions of Article 1 of Title 32, C.R.S., as amended, shall be taken by the passage of motions, resolutions, or orders, as may be appropriate. All such formal action shall require the majority vote of the quorum present.

5.5 Roberts Rules of Order. Roberts Rules of Order shall be utilized as a guideline for matters coming before the Board; provided, however, that no action, formal or informal, shall be set aside due to any irregularity or noncompliance with Roberts Rules of Order. The Chairperson shall make all rulings with respect to procedural issues, and shall have a vote on each issue coming before the Board.

6. DIRECTORS, OFFICERS AND PERSONNEL.

6.1 Director Qualifications and Terms. The qualifications and term of each Director shall be determined by applicable statutory provisions with elections held in even numbered years. At the expense of the District, each Director shall furnish a faithful performance surety bond. The bond may be a blanket surety bond.

6.2 Oath of Office. Each member of the Board, before assuming the responsibilities of his office, shall take and subscribe to the oath of office as required by state statute.

6.3 Election of Officers. The Board of Directors shall elect from its membership a president who shall also serve as chairman of the board, a vice president, a secretary, and such assistant secretaries and assistant treasurers, who shall be the officers of the Board of Directors and of the District, as the Board may determine. The Board may elect a secretary who is not a member of the Board. The officers shall be elected by a majority of

the Directors voting at the meeting in accordance with the voting procedures set forth in paragraph 5.2. The election of the officers shall be conducted at the first regular meeting of the Board following the regular biennial elections. Each officer so elected shall serve at the pleasure of the Board or for a term of two years, which term shall expire upon the election of the officer's successor or upon the officer's reelection to that office.

6.4 **Vacancies.** Any vacancy occurring in any office shall be filled for the unexpired term in the same manner as is provided for the election of full-term officers. Vacancies on the Board shall occur as set forth by state statute, including the failure of a director to attend three consecutive meetings without such additional absences being excused by the Board due to illness or injury. Any vacancy of the Board shall be filled by appointment by the remaining Directors as prescribed by statute, with or without advertisements of the vacancy at the discretion of the Board.

6.5 **President and Chairman.** The president shall be the chairman of the Board, shall preside at all meetings, and shall be the chief executive officer of the District. The president shall sign all contracts, deeds, notes, warrants and other instruments on behalf of the District, and discharge such other duties as may be required or authorized.

6.6 **Vice President.** The vice president shall perform the duties of president and chairman in the absence of the president.

6.7 **Secretary.** The secretary shall keep or cause to be kept full and accurate records of the District; shall act as secretary at meetings of the Board and record all votes; shall compose a record of the proceedings of the Board in a minute book kept for that purpose, which shall be an official record of the Board; and shall perform all duties incident to that office. The secretary shall be custodian of the seal of the District and shall have the power to affix such seal to and attest all contracts and instruments authorized to be executed by the Board.

6.8 **Treasurer.** The treasurer shall keep or cause to be kept strict and accurate accounts of all money received by and disbursed for and on behalf of the District in permanent records. The treasurer shall file with the Clerk of the Court, at the expense of the District, a corporate fidelity bond in an amount determined by the Board of not less than \$5,000.00, conditioned on the faithful performance of the duties of the office. If a budget or financial committee is established, the treasurer may chair such committees.

6.9 **Additional Duties.** The officers of the Board shall perform such other duties and functions as may from time to time be required by the Board, by the bylaws or rules and regulations of the District, or by special exigencies, which may later be ratified by the Board; provided, however, that no director shall be employed by the District in any capacity.

6.10 **Employees.** The Board may hire such employees to serve upon such terms and conditions, including salary, as the Board may establish pursuant to policy or contract.

6.11 **Selection and Tenure of Consultants.** The selection of agents, engineers,

architects, accountants, special consultants and attorneys shall be made by the Board and shall be based upon the relative qualifications and capabilities of the applicants. Agents and consultants shall serve at the pleasure of the Board. Contracts for professional services may be entered into on such terms and conditions as determined by the Board.

7. **FINANCIAL ADMINISTRATION.**

7.1 **Fiscal Year.** The fiscal year of the District shall commence on January 1 and end on December 31 of each year.

7.2 **Budget.** On or before October 15 of each year, the Board's designated Budget Officer shall prepare and submit to the Board a proposed budget for the ensuing fiscal year. Such proposed budget shall set forth the aggregate figures of the budget in such manner as to show the balanced relations between the total proposed expenditures and the total anticipated income or other means of financing the proposed budget for the ensuing fiscal year, as contrasted with the corresponding figures for the last completed fiscal year and the current fiscal year. It shall be supported by explanatory schedules or statements classifying the expenditures contained therein by services, subjects and funds. The anticipated income of the District shall be classified according to the nature of receipts.

7.3 **Notice of Budget.** Upon receipt of such proposed budget, the Board shall cause to be published a notice that the proposed budget is open for inspection by the public at the business office; that the Board will consider the adoption of the proposed budget on a certain date; and that any interested elector may inspect the proposed budget and file or register any objections thereto at any time prior to its final adoption.

7.4 **Adoption of Budget.** On the day set for consideration of such proposed budget, the Board shall review the proposed budget and thereafter revise, alter, increase or decrease the items as it deems necessary in view of the needs of the District and the probable income of the District. The Board shall thereafter formally adopt the budget setting forth the expenditures to be made in the ensuing fiscal year. The Board shall provide for sufficient revenues to finance budget expenditures.

7.5 **Filing of Budget.** Within 30 days of adoption of the budget, the Board shall cause a certified copy of such budget to be filed with the Division of Local Government in the Department of Local Affairs.

7.6 **Appropriating Resolution.** At a meeting held no later than December 31 each year, the Board shall enact a resolution making appropriations for the ensuing fiscal year. The amounts appropriated shall not exceed the amounts established in the adopted budget.

7.7 **No Contract to Exceed Appropriation; Contract Authorization.**

a. The Board shall have no authority to enter into any contract, or otherwise bind or obligate the District to any liability for payment of money for any purposes, for which provision is not made in an appropriation resolution, including any legally authorized amendment thereto, in excess of the amount of such

appropriation for that fiscal year. Any contract, verbal or written, contrary to the terms of this sub-section shall be void *ab initio*, and no District funds shall be expended in payment of such contracts, except as provided in the following sub-section.

b. The Board shall approve all contractual obligations of the District. However, the Board may delegate general purchasing authority for routine supplies and expenditures to its employees or officers.

7.8 **Contingencies.** In cases of emergency caused by a natural disaster, public enemy, or some contingency which could not reasonably have been foreseen at the time of the adoption of the budget, the Board may authorize the expenditure of funds in excess of the budget by resolution duly adopted by a two-thirds vote of the entire membership of the Board, as provided by state statute.

7.9 **Annual Audit.** The Board shall cause an annual audit to be made of all financial affairs of the District through December 31st of the prior fiscal year. A copy of the audit report shall be maintained in the District office as a public record for public inspection at all reasonable times. The treasurer shall forward a copy of the audit report to the State Auditor pursuant to statutory requirements, within thirty days following receipt of the audit.

7.10 **Checks.** Each check issued on behalf of the District in excess of \$10,000 shall be specifically approved by the Board unless the expenditure was specifically approved by line item in the adopted budget. Use of mechanical signature facsimiles may be authorized by the Board.

8. **CORPORATE SEAL.** The seal of the District shall be a circle containing the name of the District and shall be used on all documents and in such manner as seals generally are used by public and private corporations. The secretary shall have or delegate custody of the seal and shall be responsible for its safe keeping and care.

9. **CONFLICT OF INTEREST.**

9.1 **Disclosure of Conflict of Interest.** Any Director who is present at a meeting at which is discussed any matter in which that Director has, directly or indirectly, a private pecuniary or property interest shall disclose such interest to the Board. Unless such Director has given prior advance written notice to the Colorado Secretary of State and to the Board, in accordance with all statutory requirements, such Director shall refrain from advocating for or against the matter and shall disqualify himself/herself from voting on such matter. The Board may adopt a separate policy specifically regarding ethical standards and practices.

9.2 **Compensation.** Each Director may receive \$75.00 per meeting attended up to the statutory maximum of \$1,200 per year. Directors shall not receive any other compensation as an employee of the District except as may be provided by state statute.

9.3 **Disclosure of Gifts, Property, etc.** Any director receiving any money or loan with a value of \$25 or more, or any gift or property with a value of \$50 or more, or any payment for a speech, appearance or publication, or any tickets to a sporting, recreational, educational or cultural event with a value of \$50 or more, or the payment of reimbursement for actual and necessary expenses for travel/lodging other than from the District, shall report such money, loan, gift, or reimbursement in accordance with the provisions of the Public Official Disclosure Act, Sec. 24-6-203, C.R.S.

10. **INDEMNIFICATION OF DIRECTORS AND EMPLOYEES.** To the extent provided by law, the District shall defend, hold harmless and indemnify any Director, officer, agent or employee, whether elective or appointive, against any tort or liability, claim or demand, whether groundless or otherwise, arising out of any alleged act or omission occurring during the performance of duty. The District may compromise and settle any such claim or suit and/or pay the amount of any settlement or judgment rendered thereon.

10.1 **Definitions.** For the purposes of this Section 10 only, the following definitions shall apply.

a. **"Employee"**. The term "employee means a director, officer, employee or servant (hereinafter collectively referred to as "employee") of the District, whether or not compensated, elected or appointed. The term "employee" specifically excludes any person or organization contracting to perform services or acting for the District as an independent contractor.

b. **"Performance of Duty"**. The term "performance of duty" shall be interpreted as broadly as possible to include any situation in which a District employee could conceivably be deemed to be acting within the scope of employment. It shall specifically extend to all employees who are providing service on a voluntary basis or otherwise to any private, corporate, or governmental party other than the District, when doing so with the appropriate consent and authorization from the District. The term "performance of duty" shall not include any act or omission constituting deliberate and intentional tortious or criminal conduct or malfeasance in office, or willful or wanton neglect of duty.

10.2 **Designation of Legal Counsel.** The District reserves the right to designate the attorney appointed to defend any employee in any tort or liability action instituted pursuant to this Section 10.

10.3 **Payment of Claims.** All judgments or claims to be paid pursuant to this Section 10 shall be paid by the District or its insurer. Any judgment or settlement of a claim against the District or its employees shall be paid in accordance with the provisions of said Governmental Immunity Act.

10.4 **Defense Not Available.** The District may decline to provide a defense or indemnify any employee in any of the following circumstances:

a. If the employee willingly and knowingly fails to notify the District, within a

reasonable time, of any incident or occurrence which the employee might reasonably expect to result in a claim of tort liability against him or the District.

b. If any employee fails to notify the District of any notice of claim or summons and complaint served upon that employee commencing a suit for damages reimbursable pursuant to this Section 10; such notice shall be given to the District within fifteen business days of its service upon the employee.

c. If an employee fails to exercise reasonable efforts to notify the District of any claim which is informally asserted against that employee for damages reimbursable pursuant to this Section 10.

d. If an employee refuses to cooperate with an investigation or defense of any lawsuit by the District, or its insurer, or by any attorney employed by the District to furnish the defense to said employee, or any private investigator hired by the District to investigate such tort or liability claim.

10.5 Extent of Payment. If the District or the employee against whom a claim reimbursable hereunder is asserted has any other valid insurance, bond or indemnification plan available covering the loss or damage alleged against him, such insurance, bond or other plan will be first applied to the payment of any claim. In such event, the obligation of the District to indemnify and hold harmless the employee shall exist only for liability incurred in excess of such other coverage.

10.6 Subrogation. In the event of any payment made pursuant to this Section 10, the District shall be subrogated to all of the employee's rights of recovery therefor against any person or organization, and the employee shall execute and delivery instruments and papers and do whatever else is necessary to secure such rights of subrogation. The employee shall do nothing to prejudice such rights.

10.7 No assignments of indemnification. No assignments of indemnification shall be permitted without the written consent of the District, signed by the President, and no such assignment shall bind the District unless such written consent is given prior to assignment. If, however, the employee shall die, the benefits of this Section 10 shall be available to, and apply fully to, the employee's legal representative, but only while acting within the scope of his duties as such.

10.8 Continuation. Any defense and indemnification available to an employee under this Section 10 shall continue to be available after the termination of his employment, office or tenure if the act or omission causing such liability occurred during the course of his duties while an employee of the District. Such defense and indemnification shall not be available to a former employee, however, in the event that the tort or liability claim against him is asserted as a counterclaim or set-off in any suit brought by the employee, except the extent that the liability of such employee may exceed the amount of his own claim or suit.

10.9 Applicability of State Law. The provisions of this Section 10 shall be subject to the provisions of the Colorado Governmental Immunity Act, Sec. 24-10-101, et seq.,

C.R.S., and the Colorado constitution. Nothing herein is to be construed as a waiver of any immunity or defense provided by law.

11. **BIDDING AND CONTRACTING PROCEDURES.** Except in cases in which the District will receive aid from a government agency, a notice shall be published for bids on all construction contracts for work or material, or both, involving an expense of \$25,000.00 or more. The District may reject any and all bids. If it appears that the District can perform the work or secure material for less than the lowest bid, it may proceed to do so. If possible, at least three quotes shall be obtained for work or material, or both, involving an expense less than \$25,000.00. The purchase of equipment, apparatus, and vehicles shall be exempt from these bidding and contracting procedures provided, however, that the Board may adopt specific policies with respect to the purchase of such equipment, apparatus, and vehicles.

11.1 **Bid Notice.** A Notice or Invitation to bid shall be published in a newspaper of general circulation within the District boundaries pursuant to state statute. The Notice will request sealed proposals for the construction to be done, or for the materials needed. The specifics of the contract will be stated; where and when the plans and specifications may be examined; and the time and place the sealed proposals will be opened and publicly read.

11.2 **Rejection and Award of Bids.** The Board retains the right at all times, in its sole discretion, to reject any or all proposals; determine the proposal and subcontractors that will serve the best interests of the District; and determine the proposal and subcontractors which are most responsible to perform the work.

11.3 **Bid Bond.** Bids must be accompanied by an acceptable bidder's bond, or a certified check payable to the District, in an amount equal to 5% of the bid. If within the time designated in the Notice of Award, the Contract is not executed, and, if required, Payment and Performance Bonds and Certificates of Insurance are not provided, the District shall keep the bid bond as liquidated damages, and assess such other damages as the District may determine.

11.4 **Bonds.** Payment and Performance Bonds are required for all construction contracts over \$50,000.00; and shall be discretionary with the Board for contracts which are under that amount.

11.5 **Retainage.** Ten percent of all pay estimates shall be withheld during the construction until 50% of the contract work has been performed; thereafter, no additional sums shall be withheld if satisfactory progress is being made. For any exceeding \$80,000.00, the contractor may deposit acceptable securities in lieu of such retained amounts in accordance with law. (Section 24-91-103, C.R.S.)

12. **POWERS OF THE BOARD OF DIRECTORS.** Without restricting the general powers conferred by law, it is hereby expressly declared that the Board shall have the following power and duties:

12.1 To determine and designate, except as otherwise provided by law or these bylaws,

who shall be authorized to make purchases, negotiate for the purchase of real estate, negotiate leases, and sign receipts, endorsements, checks, releases and other documents.

12.2 To create standing or special committees and to delegate such power and authority thereto as the Board deems necessary and proper for the performance of such committee's functions and obligations, consistent with statutory powers.

13. **MODIFICATION OF BYLAWS.** These bylaws may be altered, amended or repealed at any regular meeting or at any special meeting of the Board called for that purpose after an initial presentation of the proposal at a prior regular meeting of the Board.

14. **SEVERABILITY.** If any provision of these Bylaws or the application thereof is held invalid, such invalidity shall not affect the provisions or applications of these Bylaws which can be given effect without the invalid provision or application. To this end, the provisions of these Bylaws are deemed severable.

ADOPTED this _____ day of _____, _____ by the Board of Directors of the East Boulder County Water District.

EAST BOULDER COUNTY WATER DISTRICT

By _____
President

ATTEST:

Secretary