

## **RESOLUTION NO. 10R-02**

### **A RESOLUTION OF THE BIGHORN-DESERT VIEW WATER AGENCY ESTABLISHING A POLICY FOR COMPENSATION FOR PERFORMANCE OF OFFICIAL DUTIES AND REIMBURSEMENT OF ACTUAL AND NECESSARY EXPENSES ("OFFICIAL DUTIES POLICY")**

**WHEREAS**, pursuant to Government Code section 53232.1, the Bighorn-Desert View Water Agency ("Agency") may pay compensation to each member ("Director") of the Board of Directors of the Agency ("Board") for attendance at certain occurrences only if the Board has adopted, in a public meeting, a written policy specifying the types of occasions that constitute the performance of official duties for which a Director may receive payment; and

**WHEREAS**, pursuant to Government Code section 53232, if the Agency is to reimburse Directors for actual and necessary expenses incurred in the performance of official duties, then the Board must adopt a written policy, in a public meeting, specifying the types of occurrences that qualify a Director to receive reimbursement of expenses relating to travel, meals, lodging, and other actual and necessary expenses; and

**WHEREAS**, the Agency adopts this Policy For Compensation For Performance of Official Duties and Reimbursement of Actual and Necessary Expenses (the "Official Duties Policy") to allow the Agency to pay Directors for attendance at those occasions that constitute the performance of official duties and for reimbursement of their actual and necessary expenses incurred in the performance of official duties; and

**WHEREAS**, the intent of the Policy is to provide guidance to Directors on the use and expenditure of Agency resources, as well as the standards against which those expenditures will be measured, and to provide guidance to Agency employees on the use and expenditure of Agency resources, as well as the standards against which those expenditures will be measured, except as may otherwise be specifically provided in regard to employees in any applicable Agency employee policies;

**NOW**, Therefore, Be It Resolved By the Board Of Directors of the Bighorn-Desert View Water Agency as follows:

#### **A. Findings**

This Policy provides guidance to elected and appointed officials on the use and expenditure of Agency resources, as well as the standards against which those expenditures will be measured. In addition, this Policy satisfies the requirements of Government Code sections 53232.1 and 53232.2 and

supplements the definition of actual and necessary expenses for purposes of state laws relating to permissible uses of public resources. This Policy also provides guidance to employees of the Agency on the use and expenditure of Agency resources, as well as the standard against which those expenditures will be measured, except as may otherwise be specifically provided in regard to employees in any applicable Agency employee policies.

## **B. Director Compensation**

### **1. Amount of Per Diem Compensation**

Directors shall receive a daily meeting stipend in the amount set by the current Ordinance in force for each day of service rendered as a Director. Such compensation is in addition to any reimbursement for meals, lodging, travel and other actual and necessary expenses consistent with this Policy.

### **2. "Day of Service" and "Authorized Meeting" Defined**

For purposes of determining eligibility for compensation of Directors, the term "day of service" is defined as attendance by a Director, in person, at an Authorized Meeting with one or more other persons for the performance of official duties on behalf of the Agency.

All meetings, that fall under Directors' Compensation List, Categories A or B in the attached Exhibit A, are to be recognized as an "Authorized Meeting". Any other seminar, conference, meeting, or public event is to be recognized as an "Authorized Meeting" only if the Board, in open session at a meeting of the Board, approves that event as an "Authorized Meeting" before the event occurs.

### **3. Daily Limits**

If a Director attends or participates in multiple meetings in a single day, the Director shall be eligible for compensation for only one meeting on that day.

### **4. Aggregate Limits**

The number of days for which a Director receives a daily meeting stipend will not exceed the aggregate limits established by state law and set by the current Ordinance in force or any successor thereto, which provides that compensation shall not exceed ten (10) meetings/days per month.

### **5. Travel Days**

Whenever practical and in keeping with established Board policy stating that whenever a particular educational opportunity exists

via Webinars or other online course formats, these be considered first as the preferred method of education for Directors.

Per diem compensation shall include travel days to and from authorized meetings as appropriate. Unless specifically approved by the Board in advance, Directors shall not count travel to meeting within 125 miles of the Agency's office as a reimbursable per diem travel day.

### **C. Authorized and Unauthorized Expenses**

Agency funds, equipment, supplies (including letterhead), titles, and staff time must only be used for authorized Agency business. Expenses incurred in connection with the following types of activities generally constitute authorized expenses, as long as the other requirements of this Policy are met:

1. Communicating with representatives of regional, state and national government on Agency adopted policy positions; and
2. Attending educational seminars designed to improve officials' skill and information levels;
3. Participating in regional, state and national organizations whose activities affect the Agency's interests;
4. Recognizing service to the Agency (for example, thanking a longtime employee with a retirement gift or celebration of nominal value and cost);
5. Attending Agency events;
6. Meetings such as those listed above for which a meeting stipend is expressly authorized under this Policy.

**Examples of personal expenses that the Agency will not reimburse include, but are not limited to:**

1. The personal portion of any trip;
2. Political or charitable contributions or events;
3. Family expenses, including partner's expenses when accompanying an official on Agency-related business. Family expenses also include expenses of children and pet-related expenses;
4. Entertainment expenses, including theater, movies, sporting events, or other cultural events;

5. Non-mileage personal automobile expenses, including repairs, traffic citations, insurance or gasoline; and
6. Personal losses incurred while on Agency business.

*Any questions regarding the propriety of a particular type of expense should be resolved by the approving authority at the Agency **before** the expense is incurred.*

#### **D. Payment of Expenses**

To conserve Agency resources and keep expenses within community standards for public officials, expenditures incurred in the performance of official duties should adhere to the following guidelines. In the event that expenses are incurred which exceed these guidelines, the cost borne or reimbursed by the Agency will be limited to the costs that fall within the guidelines.

##### **1. Transportation**

- a) A request for reimbursement for mileage incurred by a Director is payable by the Agency only if the Director or the Director's driver of the vehicle in which the Director is transported, and for which reimbursement is sought, holds a valid California driver's license during that period in which the claim for reimbursement arises. Reimbursement will not be paid unless the Director or the Director's driver holds a valid California Driver's license. The Director or the Director's driver must satisfy the Agency's automobile liability insurance requirements by completing a California Department of Motor Vehicle form authorizing release of driver information. The form may be obtained through the Board Secretary.
- b) The Agency reimbursement rate for mileage by use of a Director's own vehicle shall be calculated on the total miles driven for Agency purposes at the rate specified by the Internal Revenue Service in Publication 463 or any successor publication in effect at the time of vehicle usage. Mileage will be calculated using a standard trip program on the Internet and shall be verified by the Agency staff.
- c) Travel to meetings, conferences or seminars outside Agency boundaries where air travel is available may be reimbursable through a mileage rate should the Director choose to drive the Director's own vehicle; however, the total reimbursable amount for mileage may not exceed the cost of round trip coach airfare.

- d) The Agency reimbursement rate for vehicle parking by a Director shall be the actual amount incurred.

## 2. Lodging

Directors must use government and group rates offered by a provider of lodging services when available. If the lodging is in connection with an accepted conference or organized educational activity, lodging costs must not exceed the maximum group rate published by the conference or activity sponsor, provided that lodging at the group rate is available to the Directors at the time of booking. If a government or group rate is not available, the Agency reimbursement rate for Director lodging shall be the actual amount incurred, not to exceed the rate for comparable lodging.

## 3. Meals

The Agency reimbursement rate for Director meals shall be the actual amount incurred, including gratuities, excluding alcoholic beverages, up to the standard meal allowance established for Southern California by the Internal Revenue Service in Publication 463 or any successor publication.

## 4. Other

Agency reimbursement of all other actual and necessary expenses incurred by a Director shall be computed using the applicable Internal Revenue Service rates for reimbursement as established in Publication 463, or any successor publication. All expenses that do not fall within this reimbursement Policy or the Internal Revenue Service reimbursable rates, as provided above, shall be approved by the Board in a public meeting before the expense is incurred.

## **E. Budget Limits**

A pool of funds established through the annual budget process will be available to pay reimbursement of expenses for attendance by Directors at major conferences and seminars, to be identified in the budget as "Directors' Meeting Expense". The intent is that no individual Director receives reimbursement of expenses in excess of one-fifth of the monies established in this pool account, specific circumstances notwithstanding. Such conferences/seminars may include, but are not limited to ACWA, AWAC, CSDA and Special Districts Institute, or other major events or meetings. If insufficient monies exist in the account to pay for those expenses or if request for payment by the Board of Directors is denied, the Director would

then be required to pay for those expenses out of his or her own personal funds.

**F. Expense Forms**

The Agency shall provide expense report forms to be filed by the Directors for reimbursement for actual and necessary expenses incurred on behalf of the Agency in the performance of official duties. The expense reports shall document that expenses meet the Policy for expenditure of public resources. Directors shall submit to the Agency's Accounting Department on said form their expense reports for the calendar month no later than (10) days prior to the next regular Board meeting of the following month, and the reports shall be accompanied by receipts documenting each expense. If the reimbursement requests listed by the Director on said form satisfy the provisions of the Policy set forth herein as relates to Category "A" and Category "B" expenses, then the Agency's General Manager is hereby authorized to approve the reimbursement requests. The Board reserves the right to approve reimbursement of eligible expenses above the budget limit on a case-by-case basis prior to the expense being incurred.

**G. Audits of Expense Reports**

All expenses are subject to verification that they comply with this Policy.

**H. Reports to Board of Directors**

Directors shall provide brief reports on meetings attended at the expense of the Agency during the next agendaized meeting of Board. Activities shown on the Directors' Compensation List under Category "A" do not require a report. Activities shown on the Directors' Compensation List under Category "B" shall be made orally or in writing, or orally and by reference to any minutes.

**I. Compliance with Other Laws**

Agency directors, official and employees, as applicable, should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the Public Records Act and other laws.

**J. Violation of This Policy**

Use of public resources or falsifying expense reports in violation of this Policy may result in any of all of the following: 1) Loss of reimbursement privileges, 2) a demand for restitution to the

Agency, 3) the Agency's reporting the expenses as income to the elected official to state and federal tax authorities, 4) civil penalties of up to \$1000 per day and three times the value of the resources used, and 5) prosecution for misuse of public resources.

## **K. Ethics Training**

### **1. Requirement**

- a) Service Prior To 2007 - Each local agency official in Agency service as of January 1, 2007, except for Directors whose term of office ends before January 2, 2008, must receive training in ethics laws before January 1, 2008. Thereafter, each local agency official must receive such training at least once every two years.
- b) Service on or After 2007 - Each local agency official who commences service with the Agency on or after January 1, 2007, must receive training in ethics laws no later than one year from the first day of service with the Agency. Thereafter, each local agency official must receive such training at least one every two years.

### **2. Application**

- a) Local Agency Official as used in Section K.1 of this Resolution, the term "local agency official" means the following:
  - (i) All Directors; and
  - (ii) All executive staff of the Agency.
- b) Ethics Laws as used in Section K.1 of this Resolution, the phrase "ethics laws" includes, but is not limited to, the following:
  - (i) Laws relating to personal financial gain by public servants, including, but not limited to, laws prohibiting bribery and conflict of interest laws;
  - (ii) Laws relating to claiming prerequisites of office, including, but not limited to, gift and travel restrictions, prohibitions against the use of public resources for personal or purposes, prohibitions against gifts of public funds, mass mailing restrictions, and prohibitions against acceptance of free or discounted transportation by transportation companies;

- (iii) Government transparency laws, including but not limited to, financial interest disclosure requirements and open government laws; and
- (iv) Laws relating to fair processes, including, but not limited to, common law bias prohibitions, due process requirements, incompatible offices, competitive bidding requirements for public contracts, and disqualification for participating in decisions affecting family members.

### 3. Agency Responsibilities

- a) Records - The Agency shall maintain records indicating the dates that local agency officials satisfied the requirements of Section K of this Resolution and the entity that provided the training. The Agency shall maintain these records for at least five years after local agency officials receive the training. These records are public records subject to disclosure under the California Public Records Act.
- b) Notice - The Agency is required to provide information on training available to meet the requirements of Section K of this Resolution to its local agency officials at least once every two years.

#### **L. Review of Resolution on Annual Basis**

Each year the Board shall review this Resolution to determine its effectiveness and the necessity for its continued operation. The Agency's General Manager shall report to the Board on the operation of this Resolution, and make any recommendations deemed appropriate concerning this Resolution. Nothing herein shall preclude the Board from taking action on the Resolution at times other than upon conclusion of the annual review.

#### **M. Severability**

If any provision of this Resolution or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this Resolution, which can be given effect without the invalid provision, or application, and to this end, the provisions of this Resolution are declared to be severable.

#### **N. Effective Date**

This Resolution shall become effective immediately upon adoption.

**O. Rescission**

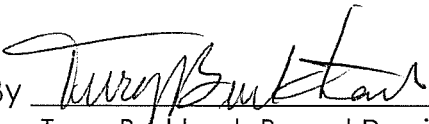
Policy 05P-01 is hereby rescinded in its entirety.

**PASSED, APPROVED AND ADOPTED** by the Board of Directors of Bighorn-Desert View Water Agency this 15 day of June 2010, by the following roll call vote:

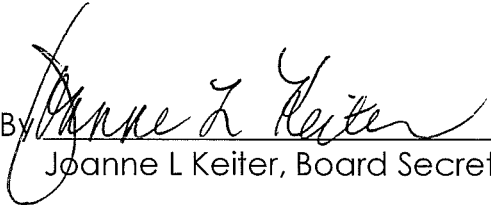
AYES: 5 (Burkhart, Coulombe, McBride, Larson, Oswalt)

NOES: 0

ABSENT: 0

By   
Terry Burkhart, Board President

I, the undersigned, hereby certify that I am the duly appointed and acting Secretary of the Bighorn-Desert View Water Agency, and that a regular meeting of the Board of Directors of said Agency held on June 15, 2010, the foregoing Resolution 10R-02 was duly and regularly adopted by said Board, and that said resolution had not been rescinded or amended since the date of its adoption, and that it is now in full force and effect.

By   
Joanne L Keiter, Board Secretary

## EXHIBIT "A"

### POLICY FOR COMPENSATION FOR PERFORMANCE OF OFFICIAL DUTIES AND REIMBURSEMENT OF ACTUAL AND NECESSARY EXPENSES

#### DIRECTORS' COMPENSATION LIST

The Following Category "A" Meetings Require No Pre-Approval And No Report Is Required Since Minute Action For These Agency Meetings Meets The Reporting Requirement Through AB 1234.

| Category "A" Activity/Description                                      | Eligibility                  |
|------------------------------------------------------------------------|------------------------------|
| BDVWA Board of Directors Meetings (Regular, Special or Workshop)       | All Directors                |
| BDVWA Standing Committee Meetings                                      | Appointed by Board President |
| BDVWA AD Hoc Committee Meetings                                        | Appointed by Board President |
| Morongo Basin Pipeline Commission                                      | Appointed by Board President |
| MWA Technical Advisory Committee                                       | Appointed by Board President |
| Other Water Districts'/Agencies' Board Meetings and Committee Meetings | Any Director                 |

The Following Category "B" Meetings Require No Pre-Approval And A Report Is Required

| Category "B" Activity/Description                                                          | Eligibility                  |
|--------------------------------------------------------------------------------------------|------------------------------|
| Meetings with Legislators (State or Federal)                                               | Any Director                 |
| Ethics Training required by law                                                            | Any Director                 |
| Integrated Regional Wastewater Management Plan Committee                                   | Assigned by Board President  |
| Mojave Water Agency (MWA) Tours                                                            | Any Director                 |
| Mojave Water Agency (MWA) Seminars                                                         | Any Director                 |
| Meetings, hosted by Association of California Water Agencies (ACWA), excluding conferences | Any Director                 |
| Meetings of the Alliance for Water Awareness and Conservation (AWAC)                       | Appointed by Board President |
| Meetings of the Homestead Valley Community Council (HVCC)                                  | Appointed by Board President |