



## **ADMINISTRATIVE AND PERSONNEL POLICY PUBLIC RECORDS REQUESTS**

### **I. PURPOSE**

This policy is established in accordance with Government Code section 6253.4, subdivision (a), which states: “Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section.” This policy sets forth the Big Bear Area Regional Wastewater Agency’s policies and procedures for handling requests to inspect and/or copy public records. It is designed to be in compliance with the California Public Records Act (Gov. Code §§ 6250 et seq.) and all existing laws pertaining to disclosure of public records. If any provision of this policy conflicts with current state or federal law, the law should take precedence.

### **II. DEFINITIONS**

As used in this Policy, the following terms shall have the following meanings:

- A. “Agency” shall mean the Big Bear Area Regional Wastewater Agency.
- B. “Certified Copy” shall mean a document certified by the Board Secretary and embossed with the BBARWA logo.
- C. “Person” shall mean any natural person, corporation, partnership, limited liability company, firm, or association. (Gov. Code § 6252, subd. (c).)
- D. “Writing” means any “handwriting, typewriting, printing, photo-stating, photographing, photocopying, electronic mail, facsimile, social media post, and every other means of recording upon any tangible thing in any form of communication or representation, including letters, words, pictures, sounds or symbols, or any combination thereof, and any record thereby created, regardless of the manner in which the record has been stored.” (Gov Code § 6252 subd. (g).)
- E. “Public Records” shall mean any Writing containing information relating to the conduct of the Agency’s business prepared, owned, used, or retained by the Agency, regardless of physical form or characteristics. (Gov. Code § 6252, subd. (e).)
- F. “Requestor” shall mean a Person, or representative of a Person, who has submitted a request for records to the Agency by mail, fax, e-mail, telephone, or in-person.

Emails that pertain to Agency business are considered Public Records, under the definitions in the Public Records Act as stated above and are subject to this Policy.



### **III. RIGHT TO INSPECT RECORDS AND OBTAIN COPIES**

Disclosable Public Records of the Agency are open to inspection by any Person during normal business hours of the Agency's offices, in accordance with this Policy. To the extent possible, the Agency will make disclosable records promptly available for inspection. However, if a request for Public Records requires staff time to gather and review documents prior to providing them for inspection, the Records Coordinator may require a Requestor to schedule a time during normal business hours to inspect the requested Public Records.

Copies or certified copies of disclosable Public Records may be obtained by any Person, subject to compliance with the procedures set forth in this Policy. The Records Coordinator will make copies of identifiable and disclosable documents promptly available, upon payment of applicable fees, as listed in the Fee Schedule (Exhibit "B").

Any disclosable portion of a record that can be reasonably separated from other parts of the record that are exempt from law shall be available for inspection and/or duplicating, including photographing, after the exempt portions have been redacted.

Documents responding to any request for records may be subject to review by the Agency's legal counsel prior to inspection, delivery, or copies. Records exempt from disclosure shall be protected and handled according to applicable law.

Employment inquires shall be the responsibility of human resource personnel. Only the date of hire, rate of pay and date of separation is allowed to be disclosed. The General Manager's employment contract is a disclosable public record and should be made promptly available upon request. The only redactions permitted to the General Manager's employment contract would be references to the Manager's home address, banking information, or other personally identifiable information such as social security number. Personal information related to current or former BBARWA employees should not be disclosed. Personal information regarding employee's family members shall never be disclosed.

Any questions from the media will be directed to the General Manager. Under no circumstances is an employee to be interviewed or questioned by the media without prior authorization from the General Manager.

### **IV. RECORDS EXEMPT FROM DISCLOSURE**

Records which are exempt from disclosure under applicable law include, but are not limited to, the following:

- A. Preliminary drafts, notes, interagency, or intra-agency memoranda which are not retained by the Agency in the ordinary course of business, provided that the



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- public interest in withholding such records clearly outweighs the public interest in disclosure. (Gov Code § 6254, subd. (a).)
- B. Records pertaining to pending litigation to which the Agency is a party, until such litigation has been finally adjudicated or otherwise settled. (Gov. Code § 6254, subd. (b).)
  - C. Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy. (Gov. Code § 6254, subd. (c).)
  - D. Statements of personal worth or personal financial data required by the Agency and filed by an applicant with the Agency to establish his/her personal qualification for a license, certificate, or permit. (Gov. Code § 6254, subd. (n).)
  - E. The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made for or by the Agency relative to the acquisition of property, or to prospective public supply and construction contracts, until all of the property has been acquired or all the contract agreements are obtained; provided that the law of eminent domain shall not be affected by this provision. (Gov. Code § 6254, subd. (h).)
  - F. Computer software developed by a state or local agency is not itself a public record under this Policy. The Agency may sell, license, lease, or license the software for commercial or non-commercial use. (Gov. Code § 6254.9.)
  - G. The records made, if any, of closed sessions, along with any confidential information that has been distributed or acquired by being present in a closed session, are not Public Records subject to inspection. (Gov. Code §§ 54957.2, 54963.)
  - H. Records the disclosure of which is exempted or prohibited pursuant to federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege. (Gov. Code § 6254 (subd. (k).) This exemption includes the Federal Health Insurance Portability and Accountability Act (HIPAA); the attorney-client privilege (Evid. Code § 952, 954); the “Official Information” privilege (Evid. Code § 1040); and the “Identity of Informer” privilege (Evid. Code § 1041).
  - I. State law requires local agencies to redact social security numbers from records before disclosing such records to the public. (Gov. Code § 6254.29.)
  - J. Test questions, scoring keys, and other examination data used to administer an examination for employment are exempt from disclosure. (Gov. Code § 6254 subd. (g).)
  - K. Agency employees’ home addresses, home and personal cell phone numbers, birth dates, and personal e-mail addresses. (Gov. Code § 6254.3.)
  - J. General public home addresses, home and personal cell phone numbers, and personal e-mail addresses, except as required by law (Gov. Code § 6255.)

This partial list of exemptions is subject to applicable law, and any changes in the law are automatically incorporated herein. A complete listing of exempt documents and documents which are not deemed to be Public Records is provided in the California Public Records Act. (Gov. Code § 6254 et. seq.)



## V. BUILDING OR CONSTRUCTION PLANS

Building and construction plans approved by San Bernardino County (County) must be made available for inspection upon request, but they must not be duplicated through any means or method, including being photographed. To receive copies of these building plans or construction plans, Requestors must contact the County department that maintains the “official copy” of those plans; pursuant to Health and Safety Code sections 19850 and 19851. County staff members can assist Requestors to obtain the required written authorizations and can provide the affidavits needed for duplicating such plans. After the requirements are met, the County can provide copies of the plans to the Requestor.

Building and construction plans, not approved by the County, must be made available for inspection upon request, but they must not be duplicated through any means or methods, including being photographed, without written permission by the General Manager. The Records Coordinator will assist the Requestor to obtain the required written authorization.

## VI. AUDIO RECORDINGS

Any audio or video recording of an open and public meeting made for whatever purpose by or at the direction of the local agency shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), but, notwithstanding Section 34090, may be erased or destroyed 30 days after the recording. Any inspection of an audio or video recording shall be provided without charge on equipment made available by the Agency. (Gov. Code § 54953.5, subd. (b).)

## VII. REQUESTS TO INSPECT AND/OR DUPLICATE OR PHOTOGRAPH RECORDS

***Requests Must be Submitted During Normal Business Hours.*** Agency staff should avoid any delays in responding to requests for public inspection and/or copies of Agency records. This requirement complies with the Public Records Act mandate that Public Records must be “open to inspection at all times during the office hours of the state or local agency...” (Gov. Code § 6253 subd. (a).) This requirement to submit records requests during normal business hours also complies with the Public Records Act provision that allows the Agency to “adopt requirements for itself to allow for faster, more efficient, or greater access to records than prescribed by the minimum standards set forth in [Public Records Act].” (Gov. Code § 6253, subd. (e).)

***Requests Should be Submitted in Writing.*** The Agency encourages members of the public to submit all requests for records in Writing to the Records Coordinator, preferably using the Public Record Request form attached as Exhibit “A” to this Policy. Written



requests reduce any misunderstandings between the Requestor and Agency staff. Fewer misunderstandings assist Agency staff in responding to requests in a timely manner and with greater efficiency. However, the Agency will not deny a request for records solely because it is not submitted in Writing.

***All Verbal Requests Must be Submitted to the Records Coordinator.*** If any member of the public chooses to make a verbal request for records, such requests will only be accepted through the Records Coordinator during normal business hours. Agency personnel who receive verbal requests for records will direct the Requestor to contact the Records Coordinator. The Records Coordinator will fill out the Public Records Request form.

***Requests Should Clearly Identify Records.*** The Requestor should specify the records to be inspected/copied with sufficient detail to enable the Agency to identify the particular records. If the request seems ambiguous or unfocused, the Records Coordinator will make a reasonable effort to obtain additional clarifying information from the Requestor that will help identify the record or records. Pursuant to Government Code section 6253.1, the Records Coordinator shall do all of the following, to the extent reasonable under the circumstances:

- assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request;
- describe the information technology and physical location in which the records exist; and
- provide suggestions for overcoming any practical basis for denying access to the records or information sought.

#### **VIII. MAKING DETERMINATIONS ON RECORDS REQUESTS/TAKING TIME EXTENSIONS**

The Agency, upon receiving a request to inspect or copy records, shall, within ten (10) days from receipt of the request to determine whether the request, in whole or in part, seeks disclosable Public Records in the possession of the Agency and shall promptly notify the Requestor of the Agency's determination and all the reasons for the determination.

In unusual circumstances, the time limit for providing the determination on a records request may be extended by written notice by the Agency to the Person making the request, setting forth the reasons for the extension and the date on which a determination is expected to be provided. Any extension of time will not last more than fourteen (14) calendar days. A response to a written request for inspection or copies of Public Records that includes a determination that the request is denied, in whole or part, shall be in Writing. As used in this Policy and pursuant to Government Code § 6253, subd. (c),



“unusual circumstances” means the following, but only to the extent reasonably necessary to the proper processing of the particular request:

- A. The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request.
- B. The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
- C. The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request or among two or more components of the Agency having substantial subject-matter interest therein.
- D. The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

If the requested records have been determined to be disclosable but additional time is still needed to locate the record, the Records Coordinator shall notify the Requestor of the estimated date that the record will be available for inspection and/or copying. Agency staff shall make every effort to locate the record in a reasonable amount of time.

Documents that are obviously disclosable, such as current agendas, minutes, resolutions, ordinances, and budgets, shall be readily available for immediate inspection.

## IX. PROCEDURES FOR PRODUCING RECORDS

All records requests shall be approved by the General Manager prior to distribution to the Requestor. The Records Coordinator will stamp the received date on each record request. Upon completion of the records request, a final copy of the form shall be filed in the Public Records Request binder, located on the administrative bookshelf in the reception area.

Requests may be accepted in any format (written, e-mail, phone, fax, or in-person). Requests for inspection and/or copies of records determined to be disclosable will be handled as follows:

***Requests for paper copies.*** The Records Coordinator will notify the Requestor of any fees for paper copies of disclosable records. Upon receipt of such fees, the Records Coordinator shall prepare and mail copies or certified copies of such records to the Requestor.

***Requests for electronic records.*** The Agency shall make disclosable Public Records that are in electronic format available in Adobe portable document format (PDF), unless the requestor explicitly asks for the record in the original native format. The Agency is not required under the California Public Records Act or other state or federal law to convert electronic records into a different format prior to producing them for a records request.



If a requested record is posted on the Agency website, the Records Coordinator may direct the Requestor to the location on the website where the record is located (e.g., provide a hyperlink to the document). However, if the Requestor is unable to access the record from the Agency website, the Records Coordinator shall make a copy of the record available, upon payment of any applicable fees. (Gov. Code § 6253, subd. (f).)

Any Person in attendance at an inspection of Agency records may request a copy of any disclosable record being inspected. Upon completion of the written request and payment of applicable fees, the Records Coordinator will prepare the copies or certified copies of the requested records. If a Requestor asks for a large number of copies after a records inspection, Agency staff may need additional time to make the requested copies.

## **X. FEES (Exhibit “B”)**

***Fees for Copies.*** The Agency shall charge fees for copies or certified copies of identifiable Public Records or information as set forth in the Fee Schedule (Exhibit “B”). If feasible, copies of disclosable Public Records may, upon request, be sent by e-mail at no charge.

***Fees for electronic records.*** The cost of providing copies of electronic records is limited to the direct cost of duplication (including the cost for CDs, DVDs, flash drives, or other materials used to provide the electronic records). There shall be no cost when providing copies of electronic records via email. However, under the California Public Records Act, the Requestor shall also bear the cost of producing a copy of the record, including the cost to construct a report using computerized data, and the cost of programming and computer service necessary to produce a copy of the record when either of the following situations applies:

- A. The electronic records requested are produced only at otherwise regularly scheduled intervals.
- B. The request requires data compilation, extraction, or programming to produce electronic records.



**Exhibit "A"**  
**Public Records Request Form**

Date of Request: \_\_\_\_\_

In accordance with the California Constitution and the California Public Records Act (Gov. Code § 6250 et seq.), I am requesting to (check one):

- Inspect the following Public Records                       Receive copies of the following Public Records

**Please provide sufficient detail to assist staff in locating the records you are seeking**

Type of Record(s): \_\_\_\_\_ Date of Record(s): \_\_\_\_\_

Additional Information:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I understand that the Agency will respond to all Public Records Act requests in compliance with state law.

For copies of Public Records listed above, I understand that the Agency copying fees or statutory fees for copying will apply. I understand that I will be responsible for payment of all copying fees in advance of the delivery of any requested copies. I also understand that the Agency has ten (10) days to determine if the request seeks disclosable records in the Agency's possession, which may be extended an additional 14 days with written notice (Section VII of the Public Records Request Policy). In some instances, the time may be extended by written notice if additional time is required to search for and collect the information requested, as set forth in the Agency Public Records Request Policy. All requests are subject to Agency legal counsel review to confirm legal compliance prior to releasing Public Records for inspection or delivery of copies. All dates falling on a holiday or weekends shall be recognized on the next business day.

Agency staff will assist the public in identifying the records and make every effort to locate the records in a reasonable amount of time. If more than fifty (50) pages are requested, the Agency may require a deposit before making copies.

Name of Requestor (Optional): \_\_\_\_\_

Phone/Fax/E-Mail: \_\_\_\_\_

I am requesting the records be:

- Mailed to the following address:                       E-mailed to the following address:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





**FOR AGENCY USE ONLY**

Approval from General Manager \_\_\_\_\_ YES \_\_\_\_\_ NO

Records Located \_\_\_\_\_ YES \_\_\_\_\_ NO

Request Complied with \_\_\_\_\_ YES \_\_\_\_\_ NO

If no, state reason: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Cost of the records request: \_\_\_\_\_

Date of Compliance: \_\_\_\_\_

Employee Name: \_\_\_\_\_

Employee Signature: \_\_\_\_\_

**DO NOT USE WITH REQUESTS FOR POLITICAL REFORM ACT DISCLOSURE  
STATEMENTS (GOVERNMENT CODE SECTION 6250).**



**Exhibit “B”**  
**Public Records Request Fee Schedule**

<b>Description</b>	<b>Price</b>
Black and White or Color Copies Standard Letter Size (8 ½” x 11”) Legal Size (8 ½” x 14”) Ledger Size (11” x 17”)	\$0.13 per page up to 100 copies 100+ copies will be actual cost for duplication
Copy charges for oversized documents that must be outsourced for duplication/reproduction	Actual cost
Fees for mailing copies	Actual cost
Cost for providing Public Records in electronic format in accordance with Gov. Code § 6253.9	Cost of staff time (current burdened cost rate)  There is no cost for providing a Public Record via email in an electronic format that is widely used and available to the public, such as Excel, PDF, etc.
Costs for providing documents on DVD	Actual cost of materials
Cost for providing documents on a flash drive	Actual cost of materials
Board & Committee Agenda mailed upon request, per Gov. Code § 54954.1 (The Ralph M. Brown Act)	In accordance with the fees associated above.
<b>Note:</b> Payment is required in advance of delivery of any requested records. If feasible, copies of disclosable Public Records may, upon request, be sent by e-mail at no charge.	