



## LAKE WHATCOM WATER AND SEWER DISTRICT

1220 Lakeway Drive  
Bellingham, WA 98229

### WORK SESSION OF THE BOARD OF COMMISSIONERS

## AGENDA

*February 10, 2021*


5:30 p.m. – Work Session

1. CALL TO ORDER
2. SPECIFIC ITEMS OF WORK
  - A. Administrative Code Title 2—Fiscal Management Policies
3. ADJOURNMENT



## AGENDA BILL

## Work Session Fiscal Management Policies

DATE SUBMITTED:	February 3, 2021	MEETING DATE:	February 10, 2021
TO: BOARD OF COMMISSIONERS	FROM: Justin Clary, General Manager		
GENERAL MANAGER APPROVAL			
ATTACHED DOCUMENTS	1. Administrative Code Title 2-Fiscal Management Policies (w/ staff comments)		
	2. District Investment Policy		
TYPE OF ACTION REQUESTED	RESOLUTION <input type="checkbox"/>	FORMAL ACTION/ MOTION <input type="checkbox"/>	INFORMATIONAL /OTHER <input checked="" type="checkbox"/>

### **BACKGROUND / EXPLANATION OF IMPACT**

District Administrative Code Title 2, Fiscal Management Policies, defines the District's financial management structure and associated policies. Aside from Chapter 2.16, Purchasing Policy, it has been a number of years since the last comprehensive review of Title 2. Similarly, the District's Investment Policy, which is independent of the Code, was last revised in 2006 via adoption of Resolution No. 714. Over the past year the Investment Committee has discussed a number of independent topics within the Fiscal Management Policies and Investment Policy that the Board of Commissioners may wish to consider policy revision to. With the current Finance Manager's retirement anticipated this July, it is timely to discuss current policies and the impacts of potential revisions at this time. Attached are both policy documents, with Investment Committee comments provided in redline/strikeout to facilitate Board discussion and gain direction on which, if any, revisions the Board wishes to pursue more formally.

### **FISCAL IMPACT**

No fiscal impact is anticipated.

### **APPLICABLE EFFECTIVE UTILITY MANAGEMENT ATTRIBUTE(S)**

Financial Viability

### **RECOMMENDED BOARD ACTION**

No action is recommended at this time, the purpose of the work session is solely to initiate Board discussion.

### **PROPOSED MOTION**

None.

# Lake Whatcom Water & Sewer District Investment Policy

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## 1 Introduction

The purpose of this policy is to establish guidelines for the efficient and prudent management and investment of Lake Whatcom Water & Sewer District ~~(District)~~ funds.

## 2 Policy

It is the policy of ~~Lake Whatcom Water & Sewer~~ District to invest public funds in a manner, ~~which will~~ that provides the highest return with the maximum security, while meeting ~~the~~ daily cash flow demands. All investments shall conform to all Washington State statutes governing the investment of public funds.

## 3 Scope

This investment policy applies to all funds of ~~Lake Whatcom Water & Sewer~~the District.

### 3.1 Pooling of Funds

Except for cash in certain restricted and special funds, ~~Lake Whatcom Water & Sewer~~the District will consolidate cash and reserve balances from all funds to maximize investment earnings and to increase efficiencies with regard to investment pricing, safekeeping, and administration. Investment income will be allocated to the various funds based on their respective participation and in accordance with generally accepted accounting principles.

## 4 General Objectives

The primary objectives, in priority order, ~~of~~ investment activities shall be safety, liquidity, and yield:

### 4.1 Safety

Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. The objective will be to mitigate credit risk and interest rate risk.

#### 4.1.1 Credit Risk

~~Lake Whatcom Water & Sewer~~The District will minimize credit risk, which is the risk of loss due to the failure of the security issuer or backer, by:

- Limiting investments to the types of securities listed in Section 7 of this Investment Policy

- Pre-qualifying the financial institutions, broker/dealers, intermediaries, and advisers with which the District will do business in accordance with Section 6
- Diversifying the investment portfolio so that the impact of potential losses from any one type of security or from any individual issuer will be minimized.

#### 4.1.2 Interest Rate Risk

The District will minimize interest rate risk, which is the risk that the market value of securities in the portfolio will fall due to changes in market interest rates, by:

- Structuring the investment portfolio so that securities mature to needed cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity.
- Investing operating funds primarily in shorter-term securities, money market mutual funds, or similar investment pools and limiting the average maturity of the portfolio in accordance with this policy.

#### 4.2 Liquidity

The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the portfolio so that securities mature concurrent with cash needs to meet anticipated demands. Furthermore, since all possible cash demands cannot be anticipated, the portfolio ~~should~~ shall consist largely of securities with active secondary or resale markets. Alternatively, a portion of the portfolio may be placed in money market mutual funds or local government investment pools, which offer same day liquidity for short-term funds.

#### 4.3 Yield

The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return of investment is of secondary importance compared to the safety and liquidity objectives described above. The core of investments are limited to relatively low risk securities in anticipation of earning a fair return relative to the risks being assumed.

### 5 Standards of Care

#### 5.1 Prudence

The standard of prudence to be used by investment officials shall be in accordance with Revised Code of Washington (RCW) 11.100.020 and shall be applied to the context of managing an overall portfolio.

Investment officers acting in accordance with written procedures and this investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and the liquidity and the sale of securities are carried out in accordance with the terms of this policy.

The statute in part states that, “~~a trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill, and caution. a fiduciary, in determining the prudence of a particular investment, shall give due consideration to the role that the proposed investment or investment course of action plays within the overall portfolio of assets. In applying such total asset management approach, a fiduciary shall exercise the judgment and care under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, and if the person has special skills or is named trustee on the basis of representations of special skills or expertise, the person is under a duty to use those skills.~~”

**Comment [JC1]:** I don't see this quote in RCW 11.100.020 cited above. Updated to 2015 language

## 5.2 Ethics and Conflicts of Interest

Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose to the General Manager any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individual which whom business is conducted on behalf of the District.

## 5.3 Delegation of Authority

Authority to manage ~~Lake Whatcom Water & Sewer~~ District's investment program is derived from RCW 57.20.135 and ~~Lake Whatcom Water & Sewer~~ District Resolution No. 712. Management responsibility for the investment program is hereby delegated to the Treasurer who shall establish written procedures for the operation of the investment program consistent with this investment policy.

### 5.3.1 Investment procedures

The procedures should include reference to safekeeping, delivery ~~versus~~ payment, investment accounting, repurchase agreements, custody agreements, and investment related banking services contracts. Such procedures shall include explicit delegation of authority to persons responsible for investment transactions. No person may engage in an investment transaction except as provided under the terms of this policy and the procedures established by the Treasurer. The Treasurer shall be responsible for all transactions undertaken and shall establish a system of controls to regulate the activities of subordinate officials.

## 6 Authorized Financial Dealers and Institutes

The Treasurer will maintain a list of financial institutions authorized to provide investment services. In addition, a list will also be maintained of approved Security Brokers/Dealers selected by credit worthiness and who maintain an office in the State of Washington. These may include primary dealers or regional dealers that qualify under the U.S. Securities and Exchange Commission (SEC) Rule 15 C3-1 Uniform Net Capital Rule. No public deposit may be made except in a qualified depository in the State of

Washington as provided in Chapter 39.58 RCW. All brokers/dealers and financial institutions who desire to do business with the District must supply the Treasurer with annual audited financial statements, proof of National Association of Securities Dealers, and certification of having read the District's investment policy. The Treasurer will conduct an annual review of the financial condition of the firms. A current audited financial statement is required to be on file for each financial institution and broker/dealer with whom the District invests.

## 7 Authorized and Suitable Investments

~~Lake Whatcom Water & Sewer~~The District ~~are is~~ empowered to invest in any of the securities as defined by RCW 39.59.020~~57.20~~ "Finances." In general, these include:

- Investment deposits, including certificates of deposit, with qualified depositories as defined in Chapter 39.58 RCW.
- Certificate notes or bonds of the United States, or other obligations of the United States, or its agencies, or any corporation owned by the government of the United States, such as the Government National Mortgage Association.
- General obligation bonds of a Washington State local government, which bonds have at the time of investment one of the three highest credit ratings of a nationally recognize rating agency.
- Obligations of government sponsored corporations, which are eligible as collateral for advances to member banks, as determined by the Board of Governors of the Federal Reserve System. These include, but are not limited to, Federal Home Loans, Bank notes and bonds, Federal Farm Credit Bank consolidation notes and bonds, Federal National Mortgage Association Notes, and guaranteed certificates of participation.
- Bankers acceptances purchased on the secondary market.
- Repurchase agreements for securities listed in ~~2, 3, and 4~~ above, provided that the transaction is structured so that the District obtains control over the underlying securities, and a master repurchase agreement has been signed with the bank or dealer.
- Local Government Investment Pool.

**Comment [JC2]:** Did you mean .040?

**Comment [JC3]:** Review RCW (current) relative to what we have listed.

**Comment [JC4]:** Add municipal bonds? Minimum A rated bonds.

**Comment [JC5]:** If we are going to identify numbers, than the bullets should be replaced with numbers.

## 8 Collateralization

Collateralization is required on repurchase agreements. In order to anticipate market changes and provide a level of security for all funds, the collateralization level will be (102%) of market value of principal and accrued interest. Only securities authorized to be purchased by the District will be accepted as collateral.

Collateral will always be held by an independent third party with whom the District has a current custodial agreement. A clearly marked evidence of ownership (safekeeping receipt) must be supplied to the entity and retained.

## 9 Safekeeping and Custody

All security transactions, including collateral for repurchase agreements entered into by the District, shall be conducted on a delivery versus payment basis. Securities purchased by the District will be delivered against payment and held in a custodial safekeeping account. Securities will be held by a third party custodian designated by the Treasurer and safekeeping receipts will evidence all transactions.

## 10 Diversification

The District will diversify its investments by security type and institution. With the exception of the U.S. Treasury Securities and the State Investment Pool, no more than fifty percent (50%) of the District's total investment portfolio will be invested in a single security type or with a single financial institution with the exception of the Local Government Investment Pool, which may from time to time contain over fifty percent (50%) due to maturity of investments.

## 11 Maximum Maturities

To the extent possible, the District will attempt to match its investments with anticipated cash flow requirements. Unless matched with a specific cash flow, the District will not directly invest in securities maturing in more than ~~five~~<sup>two</sup> years from the date of purchase. However, the District may collateralize repurchase agreements using longer dated investments. Reserve or construction in progress funds may be invested in securities exceeding five years at maturity if such investments are made to coincide as nearly as practicable with the expected use of the fund.

## 12 Internal Controls

The Treasurer shall establish an annual process of independent review by an external auditor. This review will ~~as~~<sup>en</sup>sure the policies and procedures are being complied with by providing internal control. Such review may also result in recommendations to change operating procedures to improve internal control.

### 12.1 Finance Committee

A committee shall be formed made up of two members of the Board of Commissioners, the Treasurer, and the District General Manager. This committee will work with the Treasurer and oversee investments set forth in this policy. The committee shall at a minimum annually review the full policy and recommend any modifications to the full board.

## 13 Performance Standards

~~Lake Whatcom Water & Sewer~~<sup>The</sup> District's investment portfolio will be designed to obtain a market average rate of return in budgetary and economic cycles, taking into account the District's investment risk constraints, investment objectives, and cash flow needs.

### 13.1 Market Yield

The District's investment strategy is passive. Given this strategy, the basis used by the Treasurer to determine whether the market yields are being achieved shall be the six-month U.S. Treasury bill and the average of [Federal Reserve](#) fund rates.

### 14 Reporting

The Treasurer is charged with the responsibility of including a report on investment activity and returns in the District's quarterly reports. The reports will provide a clear picture of the status of the current investment portfolio, showing its performance in relation to established benchmarks and its compliance with the investment policy.

### 15 Adoption of Policy

~~Lake Whatcom Water & Sewer~~[This](#) District investment policy shall be adopted by resolution by the Board of Commissioners. The Policy shall be reviewed at a minimum annually by the Investment Committee, made up of the Treasurer, District Manager, and two Commissioners appointed by the Board. Any modifications made to the Investment Policy must be approved and adopted by the Board of Commissioners.



## **TITLE 2 FISCAL MANAGEMENT POLICIES**

### **2.1 General Manager's Responsibilities and Limitations**

The General Manager shall be the administrator of the District. Appeals of the General Manager's instructions, interpretation of District policy, or decisions may be made to the Board of Commissioners in writing for consideration before a regular or special meeting of the Board. Letters of appeal must be submitted no less than ten days prior to any scheduled Board meeting. Where this Code requires approval by, permission or decision of, or interpretation from the General Manager, the manager may be guided by the laws of Washington State, resolutions of the Board of Commissioners, generally recognized public administrative and engineering standards and practices and by consideration of the operational demands and requirements of both the sewer works and the water treatment/distribution system as well as the peculiarities of construction, topography, soil condition, or other relevant factors. [Resolution Nos. 146, 242A, 785]

### **2.2 Operating & Capital Budget and Expenditure Policies**

The Revised Code of Washington Title 57 authorizes water and sewer districts to establish operating and capital improvement policies. From time to time it is necessary for the District's General Manager to procure goods and services on short notice without advance approval or authorization from the District's Board of Commissioners. The General Manager may do so only if it is deemed to be in the best interest of the District and its ratepayers, subject to the following limitations:

1. The General Manager shall develop an operating and capital improvement budget annually for both the water and sewer systems. The annual budget shall provide for the forecasting of revenues and expenditures for the following year. The budget shall be presented to the Board of Commissioners for review and approval prior to the end of December in advance of the new budget year.
2. The General Manager shall be responsible for administration of the District's approved operating and capital budgets.
3. The Finance Manager/Treasurer shall establish appropriate controls to monitor expenditures and the implementation of the adopted budgets.
4. The General Manager and Finance Manager/Treasurer shall develop a monthly budget report and shall present such report to the Board of Commissioners at their second regular monthly meeting. A more detailed quarterly financial report will be presented in place of the monthly report in January, April, July and October of each year.
5. The General Manager is authorized to execute contracts on behalf of the District whenever the amount of the contract is \$50,000.00 or less, provided that the funds for the contract are included in the then-current budget.
6. The General Manager is authorized to approve change orders to District contracts when the amount of the proposed change order is \$50,000.00 or less, provided that funds for the contract are included in the then-current budget.

**Comment [JC1]:** Investment Committee outstanding items:  
-Revise Payment Plan from 6 to something greater (Sections 2.8 & 2.8.4)  
-Revise Utility Bill Payment Period (Section 2.10.3)  
-Set Voluntary Billing Suspension timeframe (Sections 2.10.5 & .6)  
-Review Investment Policy (Section 2.13)

7. Following execution of a contract or change order as referenced in Sections 2.2(5) and 2.2(6) above by the General Manager, said contract or change order shall be included within the Consent Agenda for approval by the Board at the next regular meeting of the Board. The Board shall, so long as consistent with this Resolution, take action at such meeting to review and ratify the contract or change order. [Resolution Nos. 767, 861]

### **2.3 Capital Improvement Plan Policy**

The District has established as a primary fiscal responsibility the preservation, maintenance and future improvement of the District's capital facilities, equipment, and assets. Proper planning and implementation of sound capital policies and programs assist the District in avoiding fiscal emergencies and unplanned capital costs in the future.

1. A comprehensive multi-year Capital Improvement Plan for the District's water and sewer facilities is updated annually. All projects included in the Capital Improvement Plan shall be consistent with the District's Water and Sewer Comprehensive Plans.
2. The Board will review on an annual basis and establish criteria against which capital proposals should be measured. Included among the factors which will be considered for priority ranking are the following:
  - Projects which will have a positive impact on the operating budget through reduced costs or increased revenues.
  - Projects which are scheduled in the Capital Improvement Plan.
  - Projects which can be realistically accomplished during the year that they are scheduled.
  - Projects that implement previous Board-approved reports and strategies.
  - Renewal and replacement schedule projects.
3. Proposed capital projects should include cost estimates that are complete, reliable and attainable. Project cost estimates for the Capital Improvement Plan shall be based upon a thorough analysis of the project and are expected to be as reliable as the level of detail known about the project.
4. Financial analysis of funding sources will be conducted for all proposed capital improvement projects, in addition to listing the total project costs.
5. The annual capital budget shall include only those projects which can reasonably be accomplished in the time frame indicated.
6. The District will project its equipment needs and will update these projections annually. From this projection, a maintenance and replacement schedule will be developed and followed. The intent of the maintenance program shall be to maintain all assets at an adequate level in order to protect the District's capital investment and to minimize future maintenance and replacement costs; customer's expected level of service and the protection of Lake Whatcom should also be considered.

7. Although the District will generally finance projects on a “pay-as-you-go” basis, the Board may conclude that the most equitable way of funding a project that benefits the entire community will be debt financing in order to provide capital improvements or services in a timely manner.
8. New private community development including residential and commercial projects shall pay for its fair share of the capital improvements that are necessary to serve the development in the form of general facilities charges (GFCs).
9. Project proposals should indicate the project’s impact on the operating budget including, but not limited to, long-term maintenance costs necessary to support the improvement.
10. Capital projects that are not completed during the fiscal year shall be re-budgeted to be carried over to the next fiscal year. All re-budgeted capital projects should be so noted in the adopted Capital Budget.
11. Capital projects will not be budgeted unless there are reasonable expectations that revenues will be available to pay for them and subsequently fund their operations and services associated therewith.
12. Projects that involve intergovernmental cooperation in planning and funding should be established by an agreement that sets forth the basic responsibilities of the parties involved.
13. A comprehensive inventory of all capital assets shall be conducted and maintained to include estimates of actual value, replacement cost and remaining useful life.
14. Capital projects shall be financed to the greatest extent possible through user fees when direct benefit to users results from the construction of the project.
15. In conjunction with establishing or planning its capital program, the District maintains a six-year capital financing plan that supports execution of that program and is capable of sustaining long-term District capital requirements. The capital program incorporates system expansion, upgrades and improvements, and system repair and replacement. The intention is to establish an integrated capital funding strategy.
16. Comprehensive Plans for the District are completed or updated every six years as required by Chapter 57.16 RCW and applicable state regulations, using a 20-year planning horizon. For budgeting purposes, the District maintains a capital projects schedule, the Capital Improvement Plan of at least six years in duration and consistent with the comprehensive long-range plans for the system. The schedule will include the project description, estimated year of construction and total estimated cost. During the periodic rate study review various funding sources are identified as well as estimated capital fund balances, in an effort to identify a potential funding shortfall.
17. The District works to pursue a reasonable capital improvement program through careful balance of pay-as-you-go capital projects and debt financing.

18. District GFC revenue is revenue received from new customers connecting to the water and sewer systems and on expanded development(s). The District reviews and adjusts, if appropriate, the GFC as needed.
19. The District utilizes revenue bonds and applicable state and federal loans and grants to assist in capital funding whenever necessary. Each capital project that may be funded by a loan is evaluated within the context of the District's capital improvement program and the capital budget. Alternative financing sources are always considered. The District will not issue or accept long-term debt to finance current operations. [Resolution Nos. 826, 861]

## 2.4 Accounting, Auditing, Internal Controls & Financial Reporting

This policy is meant to establish an adequate system of internal controls over the treasury function. The objective of this policy is to provide an environment of limited internal risk for the District's assets and to ensure accuracy of accounting records and timely reporting and recording of financial information. Software and online account control for the bank will utilize a dual control environment. No one employee will be able to complete a disbursement of money out of the District's accounts, except for transfer to and from the State Local Government Investment Pool (LGIP) by the Finance Manager/Treasurer.

Function	Responsible Party
Authorize investment transactions	General Manager or Investment Committee
Execute investment transactions	Finance Manager/Treasurer
Transfer to and from the LGIP	Finance Manager/Treasurer
Recording of investment transactions	Finance Manager/Treasurer
Reconcile investment statements to internal records	Finance Manager/Treasurer
Reconcile treasury records to accounting system	Finance Manager/Treasurer
Review financial institutions from investments, safekeeping and banking	Finance Manager/Treasurer
Approve changes to Investment Policy	Board of Commissioners
Annual review of Investment Policy	<del>Board of Commissioners</del> Investment Committee
Reconcile checks, payments, ACH, and out-going wires to internal records	Finance Manager/Treasurer or General Manager
<del>Annual</del> Review of Rates and Charges	Board of Commissioners
Quarterly review of investment portfolio	<del>General Manager &amp;</del> Investment Committee
Quarterly review of Current Rate Structure	<del>General Manager &amp;</del> Investment Committee
Quarterly review of Comprehensive Plan	Engineering Department
Quarterly review of Capital Improvement Plan	Engineering Department

**Comment [JC2]:** Revision makes consistent w/ Section 2.14

**Comment [JC3]:** Rates are reviewed/approved every 3 years; review of Master Fees & Charges schedule is reviewed as needed.

**Comment [JC4]:** Redundant--GM is part of the Investment Committee (defined in Section 2.14)

### 2.4.1 Accounting Records and Reporting

The District will maintain its accounting records in accordance with state and federal regulations. Budgeting, accounting and reporting will conform to Budgeting, Accounting and Reporting System (BARS) for governments as prescribed by the Washington State Auditor.

#### **2.4.2 Auditing**

The State Auditor will, at a minimum, bi-annually perform the District's financial and compliance audit. Results of each audit will be provided to the Board in a timely manner. An annual financial report shall be prepared in accordance with generally accepted accounting principles and shall be distributed to any interested party.

#### **2.4.3 Simplified Fund Structure**

To the extent possible, the District will minimize the number of funds.

#### **2.4.4 Cash Management**

The Finance Manager/Treasurer will develop, maintain and consistently seek to improve cash management systems which ensure the accurate and timely accounting, investment, and security of all cash assets. All cash received by the District will be deposited with the Finance Department prior to the end of each business day.

#### **2.4.5 Cash Handling Policy**

Only employees who have been trained and certified by the Finance Manager/Treasurer shall handle cash on a regular basis. Staff members who handle cash shall:

1. Deposit funds within twenty-four hours of receipt or on the next banking day after receipt unless otherwise authorized by the Finance Manager.
2. Comply with the policies and rules established by the Finance Manager for handling and processing cash, and for the documentation of related records.
3. Notify the Finance Manager of any loss or theft of District money immediately upon discovery. [Resolution Nos. 727, 861]

### **2.5 Authority to Approve Certain Vouchers**

Generally, the District's payment vouchers shall be approved by the Board of Commissioners; however, the District's management is authorized to approve vouchers, for the principal purpose of avoiding late payment penalties, with regard to the following obligations of the District: (a) utility bills; (b) credit card bills, including those for Visa and fuel companies; and (c) other obligations to which a late payment penalty may attach if not paid within less than thirty days of presentment to the District. A list of all such vouchers shall be submitted to the Board of Commissioners for their approval. Checks are signed and mailed after the Consent Agenda is approved by the Board at their regular meeting. All provisions of RCW 42.24.180 shall be followed, and individual fidelity bonds shall be provided for the District management at the District's expense by a surety acceptable to the Board in the sum of \$50,000.00 each. [Resolution No. 785]

### **2.6 Auditing Officer**

The General Manager of the District shall be the auditing officer of the District, and the Assistant General Manager/District Engineer of the District shall be the auditing officer of the District in the absence of the General Manager. [Resolution No. 785]

## 2.7 Master Fees and Charges Schedule

The District's current rates and charges are set by the Board in accordance with RCW 57.08.005 and are codified in Title 7 of this Administrative Code.

[Resolution Nos. 806, 861]

## 2.8 Fees / Charges Adjustment Authority

The District has established fees and charges which it applies on a uniform basis and the payment of its rates, fees and charges are required by law to reflect the cost of service. The District's ~~policy and procedures manual~~ permits the waiving of late charges and allows the District to not shut off service, place a lien against property, and pursue collection under certain circumstances, where a customer adheres to a payment plan approved by the Finance Manager. Payment plans may be developed at the discretion of the Finance Manager/Treasurer, but should typically be structured in a manner that evenly divides the outstanding balance into monthly payments over the term of the plan. The payment plan term shall not exceed 12 months. Failure to meet the terms of the payment plan shall result in shut-off of service and accrual of applicable fees and charges.

The cost-efficient and fair administration of such fees and charges and timely response to District customers is facilitated by delegating to the General Manager authority to adjust certain fees and charges or to dismiss same under very limited circumstances listed below:

1. Applications to dismiss or adjust fees or charges shall be referred to the District's Finance Manager for investigation.
2. The Finance Manager shall make a written recommendation regarding an application for adjustment to the General Manager after completing his/her investigation.
3. The General Manager is authorized to make adjustments and write-offs of fees or charges where investigation reveals that a fee or charge was erroneously imposed by the District.
4. The General Manager is authorized to reduce a single fee or charge, or a combination of fees or charges based upon the recommendation of the Finance Manager, the policies underlying adoption of a fee or charge for the conduct in question, and any mitigating circumstances presented by the applicant.
5. Additionally, in accordance with the existing Leak Adjustment Policy, defined in Section 2.10.8, either the General Manager or the Finance Manager may waive late charges on the leak amount if the customer adheres to a prearranged payment schedule.
6. The General Manager's decision on such applications shall be the final decision of the District, unless appealed in writing to the Board of Commissioners within 30 days following receipt of the decision on the application.
7. A written report of all said adjustments and write-offs will be presented to the Board of Commissioners once a month with the Consent Agenda for informational purposes.
8. This title does not permit the General Manager to write off ULID assessments or forgive debts due to the District in contravention of State law. [Resolution No. 766]

## 2.9 Charges for Labor, Materials, Equipment, and Overhead

Rates to be charged by the District for work performed are defined in the District's current Master Fees and Charges Schedule. [Resolution No. 806]

## 2.10 Water and Sewer Service Billing

### 2.10.1 Unified Water/Sewer Rate Policy

The Board has adopted a unified rate structure for all of its water and sewer service areas. All water and sewer rates and charges shall be in accordance with the District's current Master Fees and Charges Schedule. [Resolution Nos. 669, 782]

### 2.10.2 Rate Setting Policy

The District's rates and charges are based upon the cost of service and are designed to provide for the prudent financial management of the District. When setting the rates, the Board of Commissioners not only have to be sure that there will be enough money to pay for the day to day operations of the District but also to cover future infrastructure upgrades, repairs and replacements. Since rate setting is such a complex issue, the District has periodic rate studies done by a rate consultant. ~~In 2003 the Board implemented a policy of increasing the District's rates in small increments on an annual basis.~~ When setting rates, ~~it is important to the District shall~~ use a methodology that is generally accepted.

**Comment [JC5]:** Redundant with Para. 5-no need to provide the history in the Code.

**Comment [JC6]:** Code language cleanup

1. Financial Stability: The financial stability of the District also provides rate stability. Rate stability reinforces that costs are being managed and controlled. To the extent the District is able to control and predict its annual operating costs including wholesale rate increases, the District should attempt to keep customer rates and/or rate increases as stable as possible.
2. Revenue Requirements Analysis: Revenue requirements will be established on a "cash basis" approach. The "cash basis" approach includes operation and maintenance expenses, debt service and capital improvements funded from rates. The revenue requirements, as defined herein, are the basic components. Revenue requirements should also include any other cost items requiring funding or needed to operate the District on a financially stable basis. At a minimum, revenues and costs will be projected for a six-year projected period. Costs associated with mandated program requirements will be identified and included within the "cash basis" approach.
3. Cost of Service Analysis: A cost of service study will be utilized to assist in establishing appropriate rates for individual customer classes. The cost allocation methodology will utilize techniques that are "generally accepted" by the industry. The cost of service will consider the specific circumstances and unique characteristics of the District.
4. Rate Design Analysis: Rate designs will be reflective of District needs and also reflect the specific goals and objectives of the District. Meeting District goals at a reasonable cost to the customer should also be an important consideration in utility rate design. Rates will recognize and attempt to incorporate a fixed charge for the up-front fixed costs associated with serving customers and a usage or volumetric charge that attempts to recover the variable costs of

operating the District. Rates will be set at a level that recovers necessary costs, but flexible enough to accomplish the District's objectives. Rates should be designed to be equitable, and detailed to a sufficient level to reflect the service provided.

5. **Rate Stability:** The District reviews rates on an annual basis to assure that they provide sufficient revenues. The rates are reviewed in the context of these policies to assure that they are adequately funding the District. Small annual rate adjustments are preferable when compared to large single adjustments for multi-year periods. Annual rate reviews will consider a six-year projected period to attempt to stabilize and minimize rate increases over time.
6. **Rate Impacts:** District rates are the primary communication the District has with its customers. Whenever possible, the District's rates should be easy to understand, stable from year-to-year and should minimize the overall impacts to customers. Rates will be structured to promote understanding by the District's customers. In establishing rates, the District will balance the needs of the District and the policies established therein, with the varying impacts those rates may have on District customers. [Resolution Nos. 825, 861]

### 2.10.3 Water and Sewer Service Billing

The District's policy in setting rates is that they shall be fair, equitable, understandable, and provide for the prudent financial management of the District. The District shall use the following procedures for billing:

1. District regular billing for water and sewer (if applicable) service and surcharges will commence or recommence as of the date the curb stop valve is unlocked and/or reopened.
2. Bills are due on the 20th of the month following the date of the bill. A five calendar day grace period for overdue payment is granted before a late charge as listed on the current Master Fees and Charges Schedule of the total past-due utility services balance is assessed. Late charges are refundable if the late payment is a result of District staff error or circumstances beyond the customer's control, subject to the General Manager's approval. Payments must be received at the District office by the close of business on the 25th of the month to avoid a late charge, regardless of the date postmarked.
3. For those accounts where water service charges are not paid within 60 days after the billing date, the District ~~may place a water service interruption warning door hanger~~ will issue a shut-off notice citing the date on which service suspension will occur if the outstanding payment is not received. If the bill is not paid within the allotted time stated on the ~~door hanger notice~~, service may be suspended and the meter ~~may be~~ padlocked until the bill is paid in full along with the charges associated with processing the ~~door hanger notice~~ and shutting off the water, unless a payment plan is approved in advance of service suspension in accordance with Section 2.8.
4. Regular bi-monthly billing may be suspended while service is interrupted and the District padlocks the curb stop valve whether the interruption is voluntary or not. Regular billing will continue whether service is voluntarily or involuntarily interrupted, until the curb stop valve is closed and locked. When the curb stop valve is closed and locked for any reason, the District will suspend all prospective water and sewer (if applicable) billing and surcharges.

**Comment [JC7]:** The Investment Committee has recommended reviewing the utility bill payment timeline. Staff recommends holding off on this discussion until after emergency conditions associated with the COVID-19 pandemic have passed.

**Comment [JC8]:** Same comment relative to utility bill payment timeline.

**Comment [JC9]:** The District sends shut-off notices via US Post—it doesn't use door hangers.



5. All unpaid water and sewer service charges when delinquent for 60 days or more shall be a lien against the property being served. In the event the customer fails to bring the account current within six months, the account may be referred to the District's legal counsel to begin formal foreclosure proceedings against the property.
6. See the current Master Fees and Charges Schedule for all fees and charges associated with billing. [Resolution Nos. 820, 861]

#### **2.10.4 Billing Notices**

Billings will normally be mailed to the legal owner of the property served, and his/her designated property manager. Failure to receive such bills shall not relieve the owner from the obligation to pay same, nor shall it relieve the property owner from the payment of late fees. [Resolution No. 782]

#### **2.10.5 Voluntary Temporary Suspension of Water Service Billing**

The regular bi-monthly water bill may be suspended at the property owner's request. To initiate the suspension of billing, the property owner must submit a written request to the District along with paying all current charges due on the account and the applicable administrative fee (Master Fees and Charges Schedule). The District will then lock the curb stop valve and suspend the water service billing until the property owner requests to resume water service. No voluntary suspension of service may exceed eight consecutive months, nor may a service be voluntarily suspended for more than eight total months per calendar year. [Resolution Nos. 782, 861]

**Comment [JC10]:** Addition per Investment Committee—current policy allows for customers to be in billing suspension indefinitely (we have some at 10+ years).

#### **2.10.6 Voluntary Temporary Suspension of Sewer Service Billing**

Sewer-only customers may request a sewer service interruption to suspend billing during normal business hours. Prior to billing suspension, the customer must:

1. Pay all fees as set forth in the District's Master Fees and Charges Schedule,
2. Obtain a District permit to install the two-way cleanout,
3. Install a two-way cleanout at the property line per current District Standards by a District bonded side sewer contractor, and
4. Sign a damage waiver on a form approved by the District, releasing the District from any damages that may result from the sewer service interruption.

The District will install a plug in the two-way cleanout to prevent flow in the service line. Billing suspension begins when the plug is installed. Only the District may remove the plug. It is the customer's responsibility to notify the District, in writing, at least two (2) business days prior to the customer's desired date for return to service. In the event that the plug is removed before the District receives such a request for removal of it, the customer shall be charged for sewer service from the date of billing suspension through the date the plug was found removed. No voluntary suspension of service may exceed eight consecutive months, nor may a service be voluntarily suspended for more than eight total months per calendar year. [Resolution Nos. 709, 782, 861]

### 2.10.7 Suspension of Billing for Unoccupied Premises

The ~~Board of Commissioners authorizes the~~ suspension of water and/or sewer services without charging a fee ~~is authorized~~, under certain circumstances, such as a house that has been destroyed by fire. The water and/or sewer billing will be suspended provided that:

**Comment [JC11]:** Code language cleanup revision

1. The structure in question is removed, condemned, destroyed, or no longer requires water and/or sewer service in the opinion of the General Manager, and
2. The property owner requests in writing the suspension of service and service charges to the structure, and
3. The water meter is locked or removed when the service is suspended, and
4. The account is paid current to the first of the month following the District's receipt of the property owner's written request before the billing will be suspended. [Resolution Nos. 444, 782]

### 2.10.8 Water Leak Adjustments

The District will adjust high customer water bills resulting from in-ground water service line breaks between the water meter and the outermost exterior walls of the structure. The leak adjustment request must be made in writing by the property owner and include evidence that the leak is now repaired either by enclosing a paid invoice or a receipt for repair parts. If there are no invoices or receipts available, a written assertion that the leak is now repaired is acceptable. To calculate the adjustment:

1. Water consumption figures from the same billing period in the previous year are used to calculate the leak adjustment. If less than one year's usage history exists, the current base rate allowance will be used as a non-leak quantity basis. The District will credit qualifying leak adjustment dollar amounts to the current or next customer bill. ~~There is no cap to limit the customer's costs.~~
2. The ~~District's rate structure has~~ adopted ~~on September 10, 2014 established~~ a tiered rate structure for water. Water usage exceeding 2,500 cubic feet in a two-month billing period is billed at a higher "water conservation" rate. For the purpose of calculating leak adjustment credits, water usage over 2,500 cubic feet will be billed at the lower tier rate.
3. Water leak adjustments are limited to one adjustment per account per 12-month period. When a leak occurs, the overage may be reflected on more than one consecutive billing cycle. In those instances, the District will utilize both contiguous cycles for the purpose of calculating leak adjustment credits.
4. The District will set up an incremental payment schedule on the remaining balance of the leak amount at the customer's request. Payment schedules must be arranged in a way that ensures payment of the current two-month minimum billing plus an installment on the extraordinary portion of the bill. The extraordinary portion of the bill must be paid in full within ~~six~~ 12 months of incurring the charges. Late charges on the leak amount will be waived if the customer adheres to the prearranged payment schedule. [Resolution Nos. 821, 861]

**Comment [JC12]:** Other jurisdictions provide a cap. Does the board wish to consider policy change?

**Comment [JC13]:** Code language cleanup

**Comment [JC14]:** Extend payment plan from 6 to 12 months.

#### 2.10.9 Low Income Senior/Disabled Water and Sewer Rates

As authorized by RCW 57.08.014, the ~~Lake Whatcom Water and Sewer~~ District offers uniformly reduced rates across the service area to qualified low-income seniors and disabled customers for water and sewer utilities provided by the District. Notification of such reduced rates will be provided to all persons serviced by the District annually, and upon initiating service. Eligible customers must:

1. Have an individual account serving one (1) equivalent residential unit (an account serving multiple equivalent residential units such as duplexes, multi-family, or condominium is not eligible);
2. Be the property owner and reside in the residence where the discount rate(s) are applied;
3. Provide Property Tax Exemption documentation from the Whatcom County Assessor's Office;
4. Agree that the application is public record and subject to public disclosure, waive any claim of confidentiality in any information provided and to release ~~Lake Whatcom Water and Sewer~~the District, and its employees, agents, offices, and Commissioners from any liability or claims which might arise from the disclosure of such information to any other party or entity; and
5. Agree that the discounted rate will commence on the next billing date after the application is approved and only continue for the time period when such rates are listed and set forth in the current Master Fees and Charges Schedule. [Resolution Nos. 807, 834, 861]

#### 2.10.10 Utility Billing Reconciliation Back Billing

Upon discovery of unauthorized water or sewer connection(s) to the District system, the District shall send written notice of the unauthorized connection(s) to the property owner of the property benefiting from such connection(s) along with any applicable invoices described in subsection 1 and 2 below.

1. Monthly Service Fees. Along with the aforementioned written notice, the District shall send to the property owner an invoice for service received from the unauthorized water or sewer connection(s) for the time period such connection(s) was in place, up to a maximum of six (6) months back from the date the notice is sent. Said property owner shall be required to promptly reimburse the District for such water or sewer service received for the term in the invoice, and shall commence paying for such service going forward, at regular District rates in place at the time service is provided.
2. Connection Charges. Along with the aforementioned written notice, the District shall send to the property owner a second invoice for connection charges for the unauthorized water or sewer connection(s). The connection charges for the unauthorized connection(s) shall be in the amount of the connection charge in place at the time of the notice, or the time payment is received, whichever is greater. Notwithstanding the foregoing, the District will not collect connection charges for unauthorized water or sewer connection(s) that have been in place for more than six (6) years from the date of the written notice to the property owner, unless the District had no reason to know of the existence of the unauthorized connection(s), in which case the connection charges must be paid regardless of how long the unauthorized connection(s) was in place.

**Comment [JC15]:** Customer Assistance Program  
– to be developed for Board consideration following recovery from the COVID-19 pandemic.

3. At the discretion of the General Manager, a payment plan may be established for the required reimbursement for the monthly service fees and connection charges for unauthorized connections discovered by the District, in accordance with this section. [Resolution No. 834]

## **2.11 Payment Methods**

### **2.11.1 Credit and Debit Cards**

The District will accept credit and debit cards for payment of utility billing, water and/or sewer permits, and all other fees and charges imposed by the District. The District will accept VISA, Discover, and MASTERCARD. Online payment is available via the District's website using a credit card, debit card or checking account. [Reference-Resolution Nos. 693, 778, 861]

## **2.12 Office Petty Cash Fund**

### **2.12.1 Petty Cash – Change Drawers**

The District maintains an office petty cash fund of \$600.00 for the purpose of making change for customers who pay for service fees or utility bills in cash. When not in use, the cash is kept in the office safe in two separate cash drawers of \$300.00 each. The Accounting Clerk, Accounts Receivable Clerk and Finance Manager/Treasurer are authorized to make change for customers from the Office Petty Cash Fund. The funds in the cash drawers are counted and reconciled on a daily cash basis, usually at start of the next work day. The Finance Manager/Treasurer acts as the custodian for the Office Petty Cash Fund. [Resolution Nos. 792, 861]

### **2.12.2 Petty Cash – Checking Account**

The District maintains a Petty Cash Fund in the form of a checking account for the purpose of handling minor miscellaneous expenditures associated with the District's business. All purchases require a corresponding receipt. Whenever practicable payments are to be made to a third party, however, reimbursements to staff members or commissioners for qualifying out of pocket expenses are also allowed. The Petty Cash account may also be used for meals served during meetings or for employees working overtime during an emergency. Checks require two signatures from staff members who are registered signatories on the account. The Petty Cash Fund carries a balance of \$1,000.00. The Finance Manager/Treasurer acts as the custodian for the Petty Cash Fund. [Resolution Nos. 487, 666]

### **2.12.3 Use of District Credit Cards for Travel Expenses and Purchases**

District employees and commissioners may purchase goods and services for District use, and may pay travel expenses related to District business, using a District credit card, subject to the following conditions:

1. The credit limit for each card shall be \$5,000.00
2. The credit card may be used for the purchase of items or travel expenses approved in the current District fiscal year budget, and for no other purpose.
3. Cash advances on any District credit card are prohibited.

4. The purchase of alcoholic beverages on any District credit card is prohibited.
5. For travel expenses, an itemized travel expense voucher shall be submitted to the District within thirty (30) days of expenses incurred pursuant to RCW 42.24.115.
6. There shall be six credit cards. A credit card user agreement shall be kept on file for each employee specifically identified below, and any other District employee to whom a card may be disbursed:
  - a. General Manager
  - b. Finance Manager/Treasurer
  - c. Assistant General Manager
  - d. Operations & Maintenance Manager
  - e. Two credit cards for staff and commissioners will be dispersed by the Finance Manager/Treasurer for authorized short-term use. These two cards shall be promptly returned and remain in the possession of the Finance Manager/Treasurer when not in use. [Resolution Nos. 850, 861]

### 2.13 Investment of Excess District Monies

The District's Investment Policy, most recently adopted as Resolution No. 714, establishes the guidelines for efficient and prudent management and investment of the District's funds. It is the policy of the District to invest its funds in a manner that will provide the highest return with maximum security while meeting daily cash flow demands. All investments will conform to state and local statutes governing investment of public funds. The District will consolidate cash and reserve balances from all funds to maximize investment earnings. The primary objectives of investment activities are safety, liquidity and yield. The Finance Manager/Treasurer is responsible for the District's investment program and shall apply the prudent person standard in the context of managing the portfolio. [Resolution Nos. 712, 714]

**Comment [JC16]:** Provide citation of resolution with the current, complete investment policy. Alternative-incorporate full policy in this section.

### 2.14 Investment Committee

The District's Investment Policy is reviewed annually by the Investment Committee, comprised of the Finance Manager/Treasurer, General Manager and two Commissioners appointed by the Board. Any modifications made to the Investment policy must be approved and adopted by the full Board of Commissioners. [Resolution No. 714]

### 2.15 Fixed Assets

The District's Fixed Asset Policy, most recently adopted as Resolution No. 855, shall establish and maintains internal control procedures and documents to track attractive (theft sensitive) asset acquisition, annual verification of existence, physical condition, relocation, maintenance and/or repair, alteration, transfer and disposal. [Resolution Nos. 812, 855]

**Comment [JC17]:** Provide citation of resolution with the current, complete fixed asset management policy. Alternative-incorporate full policy in this section

### 2.16 Purchasing Policy

Lake Whatcom Water and Sewer District will acquire equipment, materials, and services in a manner that results in the most efficient delivery of services considering cost and value received.

To avoid conflicts of interest, procurement will be impartial. Procurement of goods and services will provide the District with the best quality for the best value. Purchases will be made within budget limits and to meet goals and objectives approved in the District's budget. Potential purchases that are not within budget limits will be pre-approved through a budget amendment process. For purchases of goods or services in the amount of \$50,000.00 or less, the District General Manager shall have authority to award contracts or authorize purchases, provided that the funds for the contract or purchase are included in the then current budget. The Board of Commissioners shall award all contracts or authorize purchases over \$50,000.00.

The District reserves the right to implement a more stringent process than that which a purchase of goods or service may qualify for under Sections 2.16.4 through 2.16.8 if, in the opinion of the District General Manager, it is to the District's benefit to follow a more stringent process. [Resolution Nos. 833, 857]

#### **2.16.1 Definitions**

1. "Contract" means a contract in writing for the purchase of a good, material, or equipment, or for the execution of a public work or service for a fixed or determinable amount duly awarded after advertisement and competitive bid, or a contract awarded under the purchasing processes set forth herein.
2. "Emergency" as defined by RCW 39.04.280, means any unforeseen circumstance beyond the control of the District that either presents a real, immediate danger to the property performance of essential functions, or will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken. This includes declared federal or state disasters, as well as local agency-declared disasters.
3. "Equitably distribute opportunities" means that the District may not favor certain contractors on the appropriate small works roster over other contractors on the same roster who perform similar services.
4. "Personal services" are services that are rendered by any person, other than as an employee of the District, contracting to perform activities that require technical expertise but are not professional services.
5. "Professional services" are services as defined in RCW 39.80.020(5) that are rendered by any person, other than as an employee of the District, contracting to perform activities within the scope of the general definition of professional practice in Chapters 18.08 (Architects), 18.43 (Engineers and Land Surveyors), or 18.96 (Landscape Architects) RCW.
6. "Public Work" as defined in RCW 39.04.010, means all work, construction, alteration, repair, or improvement other than ordinary maintenance, executed at the cost of the District or with public funds. All public works, including maintenance when performed by contract shall comply with Chapter 39.12 RCW.
7. "Purchased services" are services that are rendered by vendors for routine, necessary, and continuing functions of the District. These services are usually repetitive, routine, or mechanical in nature, support the District's day-to-day operations, involve the completion of specific tasks or projects, and involve minimal decision-making.
8. "Unit-priced contract" means a competitively bid contract in which public works are anticipated on a recurring basis to meet the business or operations needs of the District, under which the

contractor agrees to a fixed period indefinite quantity delivery of work, at the defined unit price for each category of work. [Resolution Nos. 857, 861]

#### **2.16.2 Waiver of Competitive Bidding**

The Board of Commissioners may waive competitive bidding requirements pursuant to RCW 39.04.280 if an exemption contained therein applies to the purchase or public work; provided that, any such waiver on the grounds that the contract is for a “sole source” purchase or service must also conform with the requirements of RCW 39.26.140. Immediately after a contract award is made, the contract and the factual basis for the exemption must be recorded and open to public inspection; except that, in the case of an emergency, the requirements of Section 2.16.3 shall be followed.

The Board of Commissioners may also waive competitive bidding requirements pursuant to RCW 39.32.090 which allows the District to purchase supplies, materials, electronic data processing and telecommunication equipment, software, services, and/or equipment through the United States government without calling for bids, notwithstanding any law or charter provision to the contrary. [Resolution Nos. 833, 857]

#### **2.16.3 Emergency Public Works and Purchases**

1. Declaration of Emergency. If an emergency exists, the Board of Commissioners, General Manager, District Engineer/Assistant General Manager, Operations Manager, or Finance Manager, will issue a written declaration that an emergency exists, waiving competitive bidding requirements, and award all necessary contracts to address the emergency. If a federal or state emergency has been declared, the Board of Commissioners should pass a resolution acknowledging the declaration.
2. Emergency Board of Commissioner Meetings. Per RCW 42.30.070, emergency meetings are exempt from the normal 24-hour special meeting notice requirements of the Open Public Meetings Act.
3. Public Record of Emergency Contracts. Per RCW 39.04.280, if an emergency contract is awarded without competitive bidding, the Board of Commissioners or its designee must enter a written finding of an emergency into the public record no later than two (2) weeks following the contract award.
4. Once the emergency situation has been stabilized, the District will proceed with additional work or repairs using its normal procedures. [Resolution Nos. 834, 857]

#### **2.16.4 Purchases of Supplies, Materials or Equipment**

##### **2.16.4.1 Approval of Purchases**

A manager acting within the budget is authorized to provide for purchases of supplies, materials, or equipment in accordance with this Section. The General Manager may implement reasonable administrative procedures for purchases of supplies, materials, or equipment consistent with these policies. [Resolution Nos. 833, 857]

#### **2.16.4.2 Establishing a Vendor List**

Per RCW 57.08.050 and RCW 39.04.190, the District shall establish a vendor list for purchases of supplies, materials, or equipment less than \$50,000.00, or in such different amount as authorized by future legislative amendment. New vendors may be added to the District's vendor list at any time. Publication of List: Twice a year the District shall publish in a local newspaper notice of the existence of the District's roster of vendors, and shall solicit names of vendors for the roster. [Resolution Nos. 833, 857]

#### **2.16.4.3 Purchase Orders**

Purchase orders shall be used for all purchases greater than \$1,000.00 unless purchase is made by formal written contract. For purchases less than \$1,000.00, a signed receipt must be turned in to the finance department. A District manager may designate a monthly purchase order for vendors with repeated purchases, so long as such purchases from any one vendor, when aggregated on an annual basis, otherwise comply with Section 2.16.4. [Resolution Nos. 833, 857]

#### **2.16.4.4 Purchase of Low Cost Items (less than \$1,000.00)**

For items under \$1,000.00, quotes need not be obtained if a manager believes there is sufficient prior experience with purchasing the item to ensure that the price obtained is competitive. In such cases, it is not practicable to research comparative prices because the cost of the investigation is likely to exceed the value of potential savings, and because there are not sufficient staff resources to devote to the process for such minor purchases.

The General Manager still may require quotes for purchases under \$1,000.00 if, in the judgment of the General Manager, it is necessary to ensure a competitive price. [Resolution Nos. 833, 857]

#### **2.16.4.5 Purchases less than \$40,000.00**

The District is not required to use a formal contract when the total estimated cost of the purchase does not exceed \$40,000.00. Purchase orders shall be used as described in Section 2.16.4.3. [Resolution Nos. 833, 857]

#### **2.16.4.6 Purchases less than \$50,000.00**

Any purchase of materials, supplies, or equipment, with an estimated cost of less than \$50,000.00, or such different amount as may be authorized by future amendment of RCW 57.08.050, may be awarded as provided herein.

The District shall secure telephone or written quotes from vendors on the District's current established list of vendors for the appropriate category of materials. Quotes received by e-mail or facsimile transmission shall qualify as written quotes. This process is intended to assure a competitive price and to award contracts for purchases of materials, supplies, and equipment to the lowest responsible bidder. Whenever possible, the District shall obtain quotes from at least three vendors on the District's current established vendor list. Procedures for establishing and maintaining a vendor list are described in Section 2.16.4.2.

Immediately after the award is made, the bid quotations obtained shall be recorded, open to public inspection, and shall be made available by telephone inquiry. [Resolution Nos. 833, 857]



#### **2.16.4.7 Purchases greater than \$50,000.00**

Any purchase of materials, supplies, or equipment with an estimated cost of \$50,000.00 or more, or such different amount as authorized by future amendment of RCW 57.08.050, must be competitively bid per RCW 57.08.050. [Resolution Nos. 833, 857]

#### **2.16.4.8 Alternative Purchasing Process**

As an alternative process for purchasing materials, supplies and equipment, the District may let any contract for purchase of materials, supplies, or equipment with the suppliers designated on current state agency, county, city, or town purchasing rosters for the materials, supplies, or equipment, when the roster has been established in accordance with competitive bidding law for purchases applicable to the state agency, county city, or town. The price and terms for purchase shall be as described on the applicable roster. [Resolution Nos. 833, 857]

### **2.16.5 Public Works Contracts**

#### **2.16.5.1 Contracts less than \$50,000.00**

The District need not comply with formal bidding procedures as set forth in RCW 57.08.050 when the estimated cost does not exceed \$50,000.00. [Resolution Nos. 833, 857]

#### **2.16.5.2 Contracts less than \$350,000.00**

The District may use the small works roster as described in RCW 39.04.155(1) and section 2.16.5.4 for public work with an estimated cost of \$350,000.00 or less. [Resolution Nos. 833, 857, 861]

#### **2.16.5.3 Contracts greater than \$350,000.00**

All public work estimated to cost in excess of the small works roster maximum of \$350,000.00, or such different maximum amount as may be authorized by future legislative amendment, shall be subject to formal competitive bidding procedures required by applicable state law. [Resolution Nos. 833, 857, 861]

#### **2.16.5.4 Contracts Utilizing Small Works Roster**

All contracts for public work which are not exempt from public bidding under RCW 57.08.050, as hereafter amended, the estimated cost for which is three hundred fifty thousand dollars (\$350,000.00) or less pursuant to RCW 39.04.155, or in such different estimated cost threshold as provided in future amendment thereof, may be awarded as provided herein. Said estimated costs shall include the costs of labor, material, equipment and sales and/or use taxes as applicable.

- a) **Cost.** The District need not comply with formal sealed bidding procedures and may award public works contracts in conformance herewith for the construction, building, renovation, remodeling, alteration, repair, or improvement of real property.
- b) **MRSC and Roster Options.** The General Manager is authorized to contract with Municipal Research and Services Center of Washington (MRSC) for roster service. While under contract with MRSC, MRSC will adopt for District use those state-wide electronic databases for small public works roster developed and maintained by MRSC. The District may utilize said state-wide electronic databases for selection of contractors in conformance with this Chapter.
- c) **Publication for Contractors on Small Works Roster(s).** At least once a year, on behalf of the District, MRSC shall publish in the Bellingham Herald a notice of the existence of the small works roster or rosters and solicit statements of qualifications from firms providing contractor services.

Such advertisements will include information on how to find the address and telephone number of a representative of the District who can provide further details as to the District's projected needs for public works contractors from the small works roster. Firms or persons providing public work contracting services shall be added to appropriate MRSC roster or rosters at any time that they submit a written request and necessary records. The District may require master contracts to be signed that become effective when a specific award is made using a small works roster.

- d) **Written or Electronic Quotation Process for Small Works Roster.** The District shall obtain written or electronic quotations for public works projects to assure that a competitive price is established and to award contracts to the lowest responsible bidder, as defined in RCW 39.04.010 and RCW 39.04.350. A contract awarded from a small works roster need not be advertised. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation. Quotations may be invited from all appropriate contractors on the appropriate small works roster. As an alternative, quotations may be invited from at least five (5) contractors on the appropriate small works roster who have indicated the capability of performing the kind of work being contracted; provided that, if the estimated cost of work is from two hundred fifty thousand dollars (\$250,000.00) to three hundred fifty thousand dollars (\$350,000.00) or within such other amounts as are provided by future amendment to state statute (RCW 39.04.155), the District shall notify the remaining contractors on the small works roster that quotations on the work are being sought. Said notice may be provided by any means authorized by state statute (RCW 39.04.155), or as said statute is later amended. The District will attempt to equitably distribute the opportunity among the contractors on the appropriate roster by not favoring certain contractors over other contractors who perform similar services. Immediately after an award is made, the bid quotations obtained shall be noted in writing, open to public inspection, and available by telephone inquiry.
- e) **Determining Lowest Responsible Bidder.** The District shall award the contract for the public works project to the lowest responsible bidder who meets applicable responsibility criteria set forth in RCW 39.04, however, the District reserves the right to reject all proposals and re-solicit the call for proposals, to waive informalities or irregularities in a proposal or in the proposal process, or to accept the proposal that is in the best interest of the District. This section shall also apply to use of the limited public works roster under Section 7 herein.
- f) **Award and Compliance.** All bids and quotations shall be collected and presented at the same time to the District for consideration and determination of the lowest responsible bidder and award of the job. In general, all contractors must comply with the following:
- a. Prevailing wages must be paid and documented in compliance with RCW 39.12.
  - b. A Performance Bond shall be executed in compliance with RCW 39.08 prior to beginning work.
  - c. The contractor must hold a current Washington State Contractor's License.
  - d. The contractor must provide a certificate of insurance naming District as additional insured.
    - i. General Liability \$1,000,000 per occurrence/\$2,000,000 aggregate, automobile liability.
    - ii. \$1,000,000 Worker's Compensation and Employer's Liability insurance in the amount required by law and paid to date.
  - e. Contractor must have a satisfactory record of performance
  - f. Contractor must meet any mandatory bidder responsibility criteria established by RCW

39.05.155 or elsewhere in state law, and any supplementary bidder responsibility criteria established by the District.

g) **Alternative Limited Small Works Roster Process for Small Public Works Projects**

- a. In lieu of awarding contracts under Sections 1 through 6 herein, the District may award a contract for public work estimated to cost less than fifty thousand dollars (\$50,000.00), or such other amount as is authorized by future amendment of state statute (RCW 39.04.155), using the limited public works process provided under this section. Public works projects awarded under this section are exempt from providing a certificate of insurance naming the District as additional insured, and are further exempt from the requirement that contracts be awarded after advertisement as provided under RCW 39.04.010.
- b. For limited public works projects, the District shall solicit electronic or written quotations from a minimum of three (3) contractors from the appropriate small works roster and shall award the contract to the lowest responsible bidder. After an award is made, the quotations shall be open to public inspection and available by telephonic or electronic request. The District must equitably distribute opportunities for limited public works projects among contractors willing to perform in the geographic area of work. The District shall maintain a list of the contractors contacted and the contracts awarded during the previous twenty-four (24) months under the limited public works process, including the name of the contractor, the contractor's registration number, the amount of the contract, a brief description of the type of work performed, and the date the contract was awarded. For limited public works projects, the District may in its discretion waive the payment and performance bond requirements of Chapter 39.08 RCW and may waive the retainage requirements of RCW 60.28.011(1)(a), thereby assuming the liability for the contractor's nonpayment of laborers, mechanics, subcontractors, material persons, suppliers, and taxes, increases, and penalties imposed under Titles 50, 51, and 82 RCW that may be due from the contractor for the limited public works project, however the District shall have the right of recovery against the contractor for any payments made on the contractor's behalf. [Resolution Nos. 833, 857, 861]

**2.16.5.5 Contracts Utilizing Unit Pricing**

- a) The District may procure public works with a unit-priced contract for the purpose of completing anticipated types of work based on hourly rates or unit pricing for one or more categories of work or trades.
- b) Unit-priced contracts shall be executed for an initial contract term not to exceed one year, with the District having the option of extending or renewing the unit-priced contract for one additional year.
- c) Invitations for unit price bids must include, for purposes of bid evaluation, estimated quantities of the anticipated types of work or trades, and specify how the District will issue or release work assignments, work orders, or task authorizations pursuant to a unit-priced contract for projects, tasks, or other work based on the hourly rates or unit prices bid by the contractor. Contracts shall be awarded to the lowest responsible bidder as per RCW 39.04.010. Whenever possible, the District will invite at least one proposal from a certified minority or woman contractor who

otherwise qualifies.

- d) Unit price contractors shall pay prevailing wages for all work that would otherwise be subject to the requirements of Chapter 39.12 RCW. Prevailing wages for all work performed pursuant to each work order must be the prevailing wage rates in effect at the beginning date for each contract year. Unit-priced contract must have prevailing wage rates updated annually. Intent and affidavits for prevailing wages paid must be submitted annually for all work completed within the previous twelve-month period of the unit priced contract. [Resolution No. 861]

## **2.16.6 Professional Services Contracts**

### **2.16.6.1 Establishing a Professional Services Roster**

Per RCW 39.80.040, the District shall encourage architectural and engineering firms engaged in the lawful practice of their profession to submit annually a statement of qualifications and performance data. The District shall meet the requirements of RCW 39.80.040 through contract with the Municipal Research Services Center, which will provide District access to the MRSC Rosters program ([www.mrscrosters.org](http://www.mrscrosters.org)) professional services roster. [Resolution No. 857]

### **2.16.6.2 Services less than \$50,000.00**

For professional services in which the comprehensive cost of services is estimated to be below \$50,000.00, the District shall provide a scope of work to one (1) or more consultants or persons listed on the current MRSC professional services roster in the category(ies) under which the anticipated services most nearly relate and request a statement of qualifications (SOQ) by a specific date. Following the pre-defined deadline for SOQ submittal, the District shall evaluate each of the SOQs received by the deadline and create a short-list of preferred consultants to conduct interviews or directly select a consultant in which to initiate contract negotiations. If the District chooses to perform interviews of short-listed consultants, the District shall select a consultant following interviews with which to initiate contract negotiations. [Resolution No. 857]

### **2.16.6.3 Services between \$50,000.00 and \$200,000.00**

For professional services in which the comprehensive cost of services is estimated to be between \$50,000.00 and \$200,000.00, the District shall provide a scope of work to a minimum of three (3) consultants or persons listed on the current MRSC professional services roster in the category(ies) under which the anticipated services most nearly relate and request a statement of qualifications (SOQ) by a specific date. Following the pre-defined deadline for SOQ submittal, the District shall evaluate each of the SOQs received and create a short-list of a minimum of three (3) preferred consultants to interview; if less than three (3) SOQs are received, the short-list shall be comprised of all consultants that submitted an SOQ. Following completion of all interviews, the District shall select a consultant with which to initiate contract negotiations. [Resolution No. 857]

### **2.16.6.4 Services greater than \$200,000.00**

For professional services in which the comprehensive cost of services is estimated to be greater than \$200,000.00, the District shall secure the services through a structured public advertisement process; the MRSC professional services roster shall not be used. The District shall place an advertisement in the Bellingham Herald, at a minimum, that describes the required services, directs potential responders to where a comprehensive request for qualifications may be obtained, and identifies the response deadline. Following the pre-defined deadline for statement of qualification (SOQ) submittal, the District shall evaluate each of the SOQs received and create a short-list of a minimum of three (3) preferred

consultants to interview. Following completion of all interviews, the District shall select a consultant with which to initiate contract negotiations. [Resolution No. 857]

## **2.16.7 Personal Services Contracts**

### **2.16.7.1 Establishing a Personal Services Roster**

The District shall establish a personal services roster through contract with the Municipal Research Services Center, which will provide District access to the MRSC Rosters program ([www.mrscrosters.org](http://www.mrscrosters.org)) personal services roster. [Resolution No. 857]

### **2.16.7.2 Services less than \$5,000.00**

For personal services in which the comprehensive cost of services is estimated to be below \$5,000.00, the District shall provide a scope of work to one (1) or more consultants or persons listed on the current MRSC personal services roster in the category(ies) under which the anticipated services most nearly relate and request a statement of qualifications, schedule, and prices by a specific date. Following the pre-defined deadline for proposal submittal, the District shall evaluate each of the proposals received by the deadline and negotiate a contract with the lowest responsible, responsive bidder. [Resolution No. 857]

### **2.16.7.3 Services between \$5,000.00 and \$50,000.00**

For personal services in which the comprehensive cost of services is estimated to be between \$5,000.00 and \$50,000.00, the District shall provide a scope of work to a minimum of three (3) consultants or persons listed on the current MRSC personal services roster in the category(ies) under which the anticipated services most nearly relate and request a statement of qualifications, schedule, and prices by a specific date. Following the pre-defined deadline for proposal submittal, the District shall evaluate each of the proposals received and negotiate a contract with the person or firm found to be the most qualified based upon experience, ability to meet the District's schedule, and cost. [Resolution No. 857]

### **2.16.7.4 Services greater than \$50,000.00**

For personal services in which the comprehensive cost of services is estimated to be greater than \$50,000.00, the District shall secure the services through a structured public advertisement process. The District shall place an advertisement in the Bellingham Herald that describes the required services, directs potential responders to where a comprehensive request for proposals (RFP) may be obtained, and identifies the response deadline. Proposals shall consist of, as a minimum, a statement of qualifications, schedule, and prices. Following the pre-defined deadline for proposal submittal, the District shall conduct a public bid opening and negotiate a contract with the person or firm found to be the most qualified based upon experience, ability to meet the District's schedule, and cost. [Resolution No. 857]

## **2.16.8 Purchased Services Contracts**

### **2.16.8.1 Services less than \$5,000.00**

For purchased services in which the comprehensive annual cost of services is estimated to be below \$5,000.00, the District shall provide via oral or written communication a scope of work to one (1) or more vendors or persons capable of providing the anticipated services and request a statement of qualifications, schedule, and prices by a specific date. Following the pre-defined deadline for proposal submittal, the District shall evaluate each of the proposals received by the deadline and negotiate a

contract with the bidder found in the District's opinion to have the experience and knowledge to provide the highest-quality product at the lowest price. [Resolution No. 857]

#### **2.16.8.2 Services between \$5,000.00 and \$50,000.00**

For purchased services in which the comprehensive annual cost of services is estimated to be between \$5,000.00 and \$50,000.00, the District shall provide a written scope of work to a minimum of three (3) vendors or persons capable of providing the anticipated services and request a statement of qualifications, schedule, and prices by a specific date. Following the pre-defined deadline for proposal submittal, the District shall evaluate each of the proposals received and negotiate a contract with the person or firm found to be the most qualified based upon experience, ability to meet the District's schedule, and cost. [Resolution No. 857]

#### **2.16.8.3 Services greater than \$50,000.00**

For purchased services in which the comprehensive annual cost of services is estimated to be greater than \$50,000.00, the District shall secure the services through a structured public advertisement process. The District shall place an advertisement in the Bellingham Herald that describes the required services, directs potential responders to where a comprehensive request for proposals (RFP) may be obtained, and identifies the response deadline. Proposals shall consist of, as a minimum, a statement of qualifications, schedule, and prices. Following the pre-defined deadline for proposal submittal, the District conduct a public bid opening and negotiate a contract with the person or firm found to be the most qualified based upon experience, ability to meet the District's schedule, and cost. [Resolution No. 857]

### **2.17 Other Purchase Procedures**

#### **2.17.1 Acquiring Low-Cost Parcels for Easement Purposes Without an Appraisal**

1. The District's General Manager is authorized to waive the requirement for a written appraisal for acquisitions which he or she determines are uncomplicated and which are of property valued at ~~\$5000.00~~ or less, as identified by its Engineer in the Project Funding Estimate process.
2. The District shall nevertheless obtain a written appraisal in the event the property owner requests one or if a condemnation action is commenced.
3. Before initiating negotiations for real property acquisition, the District shall establish an amount which it believes to be just compensation therefore, and shall make a prompt offer to acquire the property for the full amount so established. The District shall provide the property owner with a written statement of, and summary of the basis for, the amount established as just compensation. Where appropriate, the amounts for the real property acquired, for damages to remaining property, and for benefits to remaining real property shall be separately stated.
4. The District will negotiate directly or through its agents for acquisition of the real property or property rights at just compensation. If the price to be paid is different from that established before negotiations commenced, memorandum stating the price to be paid and the basis for it, shall be prepared. The memorandum shall be distributed to the General Manager, Engineer, and

**Comment [JC18]:** With appraisals typically costing approx.. \$3,000, consider increasing this limit to \$10,000.

Attorney, to the extent that they are not the generator of the memorandum, and placed in the District's project file. [Resolution No. 665]

## 2.18 Reserve Policy

Reserve balances are funds that are set aside for a specific project, task, covenant requirement, and/or emergencies. These balances are maintained in order to meet short-term cash flow requirements, while at the same time minimizing the risks associated with meeting financial obligations and continued operational needs under adverse conditions.

### 2.18.1 Operating Reserve

The purpose of an Operating Reserve is to maintain financial viability of the utilities despite short-term variability in revenues and expenses, primarily caused by billing cycles, payroll cycles, accounts receivable/payable, and weather variability. The Operating Reserve targets should be as of January 1 of each calendar year, with the Operating Reserve balance expected to vary during the course of the calendar year. The following Operating Reserve targets are established:

- Water Utility – 90 days of annual operational expenses.
- Sewer Utility – 60 days of annual operational expenses.

The water utility reserve is set higher since revenue is more susceptible to year-to-year variations in water demand due to weather variations and water conservation objectives. [Resolution No. 861]

### 2.18.2 Contingency Reserve

The purpose of a Contingency Reserve is to provide a funding source for paying for unanticipated costs that may be incurred by each utility. The Contingency Reserve targets for the Water and Sewer utilities shall be maintained at fund balances equivalent to one percent of the infrastructure replacement cost for the associated utility.

**Comment [JC19]:** Should define the Contingency Reserve funds in the Code.

### ~~2.18.2~~ 2.18.3 System Reinvestment Funding

System Reinvestment Funding is a method of systematically putting aside funds for reinvestment into the infrastructure. A small portion of each annual incremental rate increase is attributable to this method of financing the District's system upkeep through bi-monthly rates.

### ~~2.18.3~~ 2.18.4 Bond Reserve Fund and Bond Redemption Funds

The District will maintain a Bond Reserve Fund ~~and Bond Redemption Funds~~ as required by bond covenants or loan agreements, and shall maintain fund balances consistent with those corresponding debt covenants/agreements. [Resolution No. 861]

**Comment [JC20]:** We maintain one bond reserve fund, and do not maintain bond redemption funds.

## 2.19 Debt Management Policy

The District recognizes that prudent use of its credit can both facilitate construction of essential capital improvements and serve as a method for sharing costs of those improvements between current and future beneficiaries. Furthermore, a debt management policy can assist the Board of Commissioners and staff to integrate the issuance of debt with other long-term planning, financial, and management objectives.

### 2.19.1 Limitation on Debt Issuance

Long-term borrowing shall be confined to capital improvements with an extended life when it is not practical to finance the construction of such capital improvements from current revenues. Approval of the Board of Commissioners is required prior to the issuance of debt.

An analytical review shall be conducted prior to the issuance of new debt. The analysis shall consider the results of such debt on the operating budget, the effect on the District's credit rating, the ability to provide future services, and the potential impact on user rates and fees. The District will carefully consider the future fiscal costs of any debt issuance to determine that any such issuance will not adversely impact the District's credit rating.

A useful measurement in assessing the debt burden of a utility is the capital structure: the outstanding debt as a percentage of total capital assets (original cost net of depreciation). A capital structure of 60% debt/40% equity is considered a conservative target.

The District will set rates sufficient to provide debt service coverage in excess of the legal minimums. Rates ~~will~~shall be set so thate the debt service coverage ratio on the utilities' senior lien debt, not including connection charge revenue, ~~shall be~~is at least 1.25.

### 2.19.2 Credit and Ratings

Capital will be raised at the lowest possible cost through maintenance of a high credit rating and demonstration of fiscal conservatism in the credit markets.

~~It is important to the rating agencies and to the financial community to articulate financial goals. In addition, a desirable debt service coverage ratio, the ratio of revenues available for debt service to the annual debt service coverage ratio, the ratio of revenues available for debt service to the annual debt service requirement, and unrestricted cash as a percent of operating expenditures positively affects the District's bond ratings. Strong bond ratings result in lower interest rate costs.~~

**Comment [JC21]:** This does not define policy – it is a narrative.

### 2.19.3 Term

Debt shall not be issued for a longer maturity schedule than a conservative estimate of the useful life of the asset to be financed. The District will seek to structure debt with level principal and interest costs over the life of the debt.

### 2.19.4 Bond Issuance

The District will use the services of reputable and experienced bond counsel in the preparation of all bond issuances. No bonds will be issued without a written opinion by bond counsel affirming that the District is authorized to issue the debt, stating the District has met all state constitutional and statutory requirements necessary for issuance, and determining the debt's federal income tax exempt status.

1. An Underwriter will be used for all bond debt issued in a negotiated or private placement sale method. The Underwriter is responsible for purchasing negotiated or private placement debt and reselling the debt to investors.



2. A Fiscal Agent will be used to provide accurate and timely securities processing and timely payment to bondholders.

#### **2.19.5 Parity Debt Service Coverage Target**

An internal financial requirement is established that requires a utility wide minimum parity debt service coverage ratio of 2 times the debt service payment. This ratio is calculated the same as the bond covenant ratio.

#### **2.19.6 Other**

Principal and interest will be paid in accordance with the terms of the applicable bond resolution. The District will maintain compliance with all covenants set forth in the bond resolutions. The District will use refunding bonds when appropriate to restructure its current outstanding debt. Refunding will be considered if and when there is an economic benefit of the refunding to the District of a refunding savings percent of 4.0% or greater. An adequate rate structure will be maintained to cover the full costs of operations to include maintenance, depreciation, capital, and debt service.

#### **2.19.7 Reimbursement from Bonds to be Issued in the Future**

The District issues tax-exempt obligations from time to time including bonds and leases for financing its activities. Regulations permit the District to appoint one or more officials for the purpose of identifying and qualifying capital projects for reimbursement purposes. The General Manager has been appointed by the Board to designate certain expenditures for reimbursement from bonds to be issued in the future. Upon a determination by the General Manager that the costs of a particular capital project are expected to be reimbursed from the proceeds of a tax-exempt obligation of the District, he/she is authorized to execute a certificate of official intent. Each certificate shall become a part of the official records of the District available for public inspection. [Resolution 737]

### **2.20 Identity Theft Prevention Program**

Under the Fair and Accurate Credit Transactions Act of 2003 (Red Flags) rule, every creditor is required to establish an identity theft prevention program tailored to its size, complexity and the nature of its operation. Accordingly, the District has established an Identity Theft Prevention Program. [Resolution No. 746]

### **2.21 Anti-Fraud Policy**

It is the District's goal to prevent, detect and eliminate all forms of fraud. The District has established these and other financial procedures and policies to promote consistent organizational behavior by providing guidelines for District personnel.

#### **2.21.1 Scope of Fraud Policy**

This policy applies to any irregularity or suspected irregularity involving employees, commissioners, consultants, vendors, contractors, or any other outside agency, engaging in a business relationship with the District.

#### **2.21.2 Responsibility and Investigation**

The General Manager is responsible for the detection and prevention of fraud, misappropriations, and other irregularities. Fraud is defined as the intentional, false representation or concealment of a material fact for the purpose of inducing another to act upon it to his or her injury. Each member of the management team will be familiar with the types of improprieties that might occur within his or her area of responsibility, and be alert for any indication of irregularity.

Any irregularity that is detected or suspected must be reported immediately to the General Manager, who coordinates all investigations with the legal counsel in conjunction with the President of the Board. In the event that fraud is suspected by the General Manager or President of the Board, the Finance Manager/Treasurer shall act as substitute. All suspected fraud is to be reported in a timely manner to the Board of Commissioners.

If the investigation substantiates that fraudulent activities have occurred, the General Manager will inform the Board of Commissioners and the Finance Manager/Treasurer will inform the State Auditor's Office.

Decisions to prosecute or refer the investigation results to the appropriate law enforcement agency for independent investigation will be made by the Board of Commissioners.

#### **2.21.3 Actions Constituting Fraud**

Fraud terms such as misappropriation or other fiscal irregularities refer to, but are not limited to the following:

1. A dishonest or fraudulent act.
2. Misappropriation of funds, supplies or other assets.
3. Impropriety in handling or reporting of money or financial transactions.
4. Profiteering as a result of insider knowledge of District activities.
5. Disclosing confidential and proprietary information to outside parties.
6. Accepting or seeking anything of material value from contractors, vendors, or persons providing services or materials to the District.
7. Destruction, removal, or inappropriate use of records, furniture, fixtures, and equipment.

#### **2.21.4 Conflicts of Interest**

The District will not accept donations of materials or services in return for a commitment to continue or initiate a purchasing agreement. [Resolution No. 833]