

*El Dorado County*

*Department of Transportation  
Zone of Benefit Advisory Committee Manual*

*Issued 5/1/08, Revised 12/02/2019*

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## **Section 1 – General Information**

## INTRODUCTION

This Zone of Benefit Advisory Committee Manual is intended as a practical guide to assist advisory committee members in understanding their role and responsibilities related to the zone of benefit.

### **Background**

A county service area may be established pursuant to the provisions of County Service Area Law (Title 3, Division 2, Part 2, Chapter 2.5 of the California Government Code) in order to authorize or empower a county to finance and provide needed public facilities and services in unincorporated areas.

A zone of benefit is a geographic area within a county service area formed to raise revenue and provide authorized service(s) to the property owners and residents within the boundaries of the identified area; i.e., road maintenance for a group of parcels served by a particular road system. The California State Board of Equalization Tax Area Services Section assigns a zone of benefit a specific tax rate area, or set of tax rate areas. Funding for the services provided in the zone of benefit is through either a voter approved special tax, or as a benefit assessment/service charge.

The funds collected for the established purpose of the zone of benefit are considered public funds. The roads within zones of benefit are considered public roads.

### **Governance**

The County Board of Supervisors is the governing body for all zones of benefit created within a county service area. The Board of Supervisors may or may not establish an advisory committee for a zone of benefit. If the Board establishes an advisory committee, the committee members are appointed by and serve at the pleasure of the Board.

The El Dorado County Board of Supervisors has appointed advisory committees for several zones of benefit, including one cemetery services zone, one lighting, landscaping and wetland related services zone, and thirty-one road maintenance zones of benefit.

The purpose of the advisory committee is to periodically meet with property owners and residents within the zone to determine the specific projects required to fulfill the zone purpose, recommend an annual budget and discuss other issue pertaining to the zone purpose. Advisory committees are required to comply with California's open meeting laws, commonly known as the Ralph M. Brown Act or Brown Act.

Input from an advisory committee and its members is wholly advisory. It is not within the authority of an advisory committee or its members to make decisions, manage or direct the delivery of services on behalf of the zone.

### Administration

The County department responsible for the administration of the zones of benefit provides ongoing support to the zones of benefit through administration of funds, contracts for work, budget preparation and other services required to facilitate the zone's purpose. Zones of benefit are treated like any other County department for purposes of financial management and are subject to all of the budgetary and fiscal regulations and ordinances that apply to County business. Each zone pays administrative costs incurred on its behalf. The costs associated with this administrative support must be included in the assessments charged to the parcels within each zone of benefit.

## **QUESTIONS AND ANSWERS ABOUT ROAD ZONES OF BENEFIT**

The County frequently receives inquiries from residents in existing zones of benefit. This list of questions and answers addresses the most common inquiries. Residents and property owners in existing zones of benefit should contact the County with specific questions, and not rely on this document for comprehensive answers to all situations.

Question: *What is a Zone of Benefit?*

Answer: A zone of benefit is a geographic area established under County Service Area law to provide funding for additional services not already being provided by any other entity, or at a higher level that might otherwise be available. Services that can be provided include road maintenance and improvement services, drainage facility, landscape, and lighting maintenance, among a few others.

If you live on a road not maintained by the County's Department of Transportation or some other agency, a petition may be submitted to form a zone of benefit to provide funding for road improvement and maintenance. Other documents are also required with the petition, including Irrevocable Offers of Dedication of roads to be maintained, a professionally prepared map of the proposed zone boundaries, and a legal description of the boundaries prepared by a professional surveyor. Next steps include a formation hearing and approval of the funding source for the zone. This does not mean that the County will take over maintenance of the roads. Formation of a zone simply guarantees funds will be available to pay for maintenance.

Question: *How is a zone of benefit different from a district?*

Answer: A zone of benefit is a kind of district. An independent District, like a Community Services District, has a Board of Directors and is self-governing. A zone of benefit is dependent district governed by the County Board of Supervisors. The S Department of Transportation, serves as a liaison between the residents and the Board.

Question: *What are the costs associated with a road zone of benefit? Are there other fees required once the zone is established?*

Answer: An application deposit is required with the request to form a zone. This deposit is used to defray the initial costs associated with zone formation. Formation charges exceeding the initial deposit must be paid before the formation is finalized. The applicant will be billed for any excess formation costs. Additional costs incurred in order to meet formation requirements, such as charges by an engineer to prepare a map, legal description, or a report in support of a benefit assessment are paid by the applicant directly to the service provider. The applicant must also pay a fee to the California State Board of Equalization, based on their fee schedule.

Once established, the zone will be charged annually as follows:

- Auditor/Controller processing costs based on a cost recovery structure. (See [http://www.edcgov.us/Government/Auditor-Controller/PropTax/direct\\_charge\\_information\\_for\\_districts.aspx](http://www.edcgov.us/Government/Auditor-Controller/PropTax/direct_charge_information_for_districts.aspx); Cost Recovery Amounts Schedule
- a proportionate amount of the cost of an insurance policy covering the zone roads based on the mileage included in each zone;
- administration fees that are specific to the work required in each zone. Fees include:
  - staff time spent administering the zone including such activities as processing purchase orders, preparing bid documents and contracts, and reviewing and monitoring the budget for each zone. Because this is a direct billing for time worked, or time and materials, this cost will vary with each zone and is dependent upon actual issues requiring staff involvement;
  - the costs associated with budget preparation, monthly reconciliation, and general zone activities, which are spread to all zones in the program;
  - other miscellaneous costs including required public noticing, administrative costs.
- Any and all road work is paid from each respective road zone's account.
- All expenditures must comply with County Ordinance requirements.

Question: *Who sets and approves the amount charged for each parcel?*

Answer: There are two types of charges that can be levied, a special tax or a benefit assessment. The amount of either a special tax or benefit assessment is supported by either a work plan or an engineer's report submitted with the application to form zone of benefit. Either must include allowance for the administrative costs previously described, as well as the maintenance costs.

A special tax requires two-thirds majority approval of the registered voters voting within the zone boundaries. A special tax is a uniform amount to each property, except that unimproved properties may be taxed at a lower rate. A special tax may be established with an escalator and/or with a "sunset clause". Any proposed increase exceeding the approved amount requires a two-thirds majority voter approval in another election.

In the case of a proposed benefit assessment, a report prepared by a licensed engineer explaining the proportional benefit received by each parcel is submitted. The requirements for the report are found in Article 13D of California's constitution. Each owner of interest in a parcel of land within the zone boundaries will then receive a ballot on which they express their approval of or objection to the proposed assessment. Responses are weighted, based on amount of the proposed assessment to the property and the percent of ownership interest for each ballot cast, in relation to all of the ballots

cast. If a majority of the weighted ballots received protest the assessment, it cannot be levied. Any subsequent proposed increase would be subject to the same documentation requirements and approval process. Once established, benefit assessments are confirmed annual by the Board of Supervisors. Any zone resident or property owner may appear before the Board to speak on the proposed assessments.

Once approved through the appropriate process, the benefit assessment or special tax is added to the property tax bill for each parcel. The funds are collected with the property taxes and deposited into an interest bearing account for use within the zone. The County Department assigned to the zone program administers all funds. Monies are not placed in the General Fund and cannot be used for any other purposes.

Question: *Who determines what work needs to be done? Who pays for these services?*

Answer: As part of the formation application, property owners and residents zone may recommend the Board of Supervisors appoint an Advisory Committee, and identify a Key Contact to act as liaison to the County. Once appointed by the Board, members of this committee serve in an advisory capacity and, as such, are subject to the provisions of California's open meeting laws, the Ralph M. Brown Act ("Brown Act"). Advisory committee members are subject rules regarding conflict of interest under the Political Reform Act of 1974 ("the PRA"), which is enforced in California by the Fair Political Practices Commission, and are required to complete two hours of Local Officials Political Ethics Training every two years.

The Advisory Committee is required to meet at least four (4) times each year. All meetings are open to the public and must be noticed accordingly. All property owners and residents of the zone have the right to speak and vote on these issues. The Committee develops a recommended budget, including specific road work projects to be completed. The committee may evaluate and make recommendations on the adequacy of the amount of revenue collected within the zone. If an increase to the previously approved benefit assessment or special tax is proposed, it must be approved through the procedures previously described.

County staff presents the zones' proposed budgets to the Board for approval annually as part of the Department of Transportation's (or other Department's, as the program is assigned) budget.

Question: *Are we required to bring our road up to any particular standards? Is there a requirement as to the level of maintenance and/or improvements we must provide?*

Answer: At this time there is no standard established for existing zone roads, although compliance with Fire Safety Regulations is recommended. The property owners and residents in the zone determine the level of improvements and/or maintenance for roads within their zone, subject to approval of the Board of Supervisors.

Question: *What happens to our money if we don't use it all during the year? What if we don't have the work done that we budgeted for? Is our money lost? Can the County use it for other purposes?*

Answer: By law, zone funds cannot be used for any purpose other than approved work in the zone and costs associated with operation and administration of the zone. Any funds budgeted but not used within one fiscal year are carried over into the zone's account for the next fiscal year. If budgeted projects are not completed, the funds will be available for the zone's use in the next year. An exception is that if a zone were to be dissolved, and a balance remained in the account, the excess funds at the time of dissolution would go to the County General Fund.

Question: *Are there any restrictions on what can be done on our road?*

Answer: One requirement of formation is that irrevocable offers of dedication for road and public utility easements be granted to the County<sup>1</sup>. Once completed, this action establishes the road as a public road, subject to provisions of applicable State laws, including but not limited to the California Vehicle Code and Streets and Highways Code. Important provisions for public roads include:

- access to the road cannot be restricted (no gates or any other barriers);
- obstructions cannot be placed on or under the surface of the roadway which will impede the speed of vehicles in such a way as to cause discomfort or harm to persons in a vehicle (such as speed bumps, speed dips or undulations); however, rumble strips and delineators are permitted;
- guide or directional signs are permitted; regulatory signs, such as speed limit or stop signs, require approval by the County Department of Transportation;
- road work must be completed by a contractor under a fully executed written agreement with the County. The contractor must meet the County's insurance requirements and satisfy licensing, bonding, and prevailing wage provisions of the Public Contract Code. Projects exceeding \$65,000 may require public bid and award made to the qualified low bidder. County staff will determine when bidding is required based on the project proposal provided by the zone advisory committee;
- limited volunteer work is allowed, upon written approval by the County prior to the start of work; and
- procurement of contracts and materials is subject to provisions of County Ordinance and Public Contract Code.

Question: *If we cannot post a speed limit on our road, how can we control speeders? What is our liability if an accident should occur?*

Answer: The California Vehicle Code states that travel on all public roads shall be at a prudent speed that in no way endangers property or life. The California Highway Patrol is responsible for public roads and will respond to calls on zone roads.

The road zones of benefit are required to contribute to the purchase of a liability insurance policy covering all zone roads.

Question: *Once a road zone of benefit is established, can it be dissolved? If so, what is the cost and what happens to any monies we have collected? Does the road revert to being a private road?*

A road zone of benefit can be dissolved by initiation of the Board of Supervisors or by initiation of the property owners or residents. A petition signed by no less than percent (10%) of the registered voters in the zone is required to initiate the dissolution process. A public hearing is conducted by the Board of Supervisors to consider dissolving the zone. Certain findings must be made in order for the dissolution to be approved, including that the roads are not of interest for public use.

If formation of the zone of benefit was a condition of approval for a subdivision map, a waiver of that condition must be obtained under a subdivision map amendment through the discretionary project review process before dissolution can proceed.

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Any funds remaining in a zone account at the time of dissolution will be used for expenses related to the dissolution. If there are additional funds remaining once the dissolution is complete and all financial obligations met, the monies will be transferred to the County General Fund.

Because irrevocable offers of dedication<sup>1</sup> exist, the roads remain public unless and until the Board of Supervisors takes formal action to vacate the right of way and return in to private use.

<sup>1</sup> This applies only to zones where irrevocable offers of dedication were made. Different circumstances exist in zones formed prior to the County's requirement for irrevocable offers of dedication from each property owner. Roads may be considered to be public through means other than an irrevocable offer of dedication, and action by an entity other than the County or its Board of Supervisors may be necessary to change the status thereof.

## **Section 2 – Local Ethics Training**

## LOCAL ETHICS TRAINING OVERVIEW

Effective January 1, 2006, Assembly Bill 1234 (AB 1234), incorporated in the California Government Code as section 53234-53235, imposed state ethics training requirements for local officials. As advisory committees to the Board of Supervisors, zone of benefit advisory committee members are required to participate in ethics training as described in Section 53235 (a) of the Government Code below:

“If a local agency provides any type of compensation, salary, or stipend to a member of a legislative body, or provides reimbursement for actual and necessary expenses incurred by a member of a legislative body in the performance of official duties, then all local agency officials shall receive training in ethics pursuant to this article.”

Zone of benefit advisory committee members are required to participate in training every two years. An overview is provided annually by the County department responsible for the administration of zones of benefit. Online training is available on the California Fair Political Practices Commission website. Proof of such training is maintained for a period of five years as required by Government Code.

The approved ethics training course covers the following subject areas:

- Principles of Public Service Ethics
- Scope of Public Service Ethics laws
- Personal Financial Gain
- Governmental Transparency Laws; and
- Fair Process Laws

The course notes are included in this Manual for reference and are not a substitute for the training course.

Additional information and an on-line training course are available at the California Fair Political Practices Commission website, <http://www.fppc.ca.gov/> under the link for Training for Local Officials. An individual Certificate of Completion is produced at the end of the two hour training session, a copy of which should be provide to CDA Administration and Finance Division staff .

## Course Notes\*- Fair Political Practices Commission Local Ethics Training- AB1234

\*(This is a guide only, and not a substitute for the required training sessions)

### Introduction

#### *About This Course*

- State requires certain local officials to receive specified ethics training every two years.
- The requirement applies to elected and appointed officials that receive either compensation for their public service or **reimbursement for their expenses**.
- The certificate you receive is proof of training.
- Extent of compliance is public record.

#### *Course Objectives*

- To familiarize you with laws that govern your service.
- To help you recognize when to ask questions of your agency counsel.
- To encourage you to think beyond legal restrictions and provide tools for doing so.
- To help you comply with the state mandatory ethics education requirements.

### Principles of Public Service Ethics

#### *The Difference Between Ethics and Ethics Laws “The Right Thing To Do”*

- A person who acts with ethical considerations in mind goes beyond the law’s minimum requirements.
- Ethics is what we ought to do-not just what we have to do.
- **Just because a course of action is legal, doesn’t mean that it is ethical.**
- Think in the terms of values and what they mean in the public service context.

Public perception, matter’s a great deal in one’s analysis of what the “right thing to do” is in public service. This is because, as public servants, public officials are stewards of the public’s trust in the public’s governing institution.

#### *Universal Ethical Values*

Research by the Institute for Global Ethics indicates that we all believe certain values are worthwhile.

- Fairness
- Loyalty
- Compassion
- Trustworthiness
- Responsibility
- Respect

#### *Trustworthiness and Public Service: What It Means*

- Remember that role is first and foremost to serve the community.
- Be truthful with your fellow elected officials, the public, and others-even when it involves speaking hard or unwelcome truths.

- Avoid any actions that would cause the public to question whether your decisions are based on personal interests instead of the public's interest.
- Do not accept gifts or other special considerations.
- Do not knowingly use false or inaccurate information.
- Do not use your public position for personal gain.
- Carefully consider any promises that you make (including campaign promises), and then keep them.

*Fairness and Public Service: What It Means*

- Make decisions based on the merits of the issues.
- Honor the law's and public's expectations that agency policies will be applied consistently.
- Support the public's right to know promote meaningful public involvement
- Support merit based processes for the award of public employment and public contracts.
- Be impartial and do not favor those who either have helped you or are in a position to do so.
- Promote equality and treat all people equitably.
- Excuse yourself from decisions when you or your family's financial interests may be affected by your agency's actions.
- Credit others' contributions in moving your community's interests forward.

*Responsibility and Public Service: What It Means*

- Work to improve the quality of life in the community and promote the best interests of the public.
- Promote the efficient use of agency resources.
- Do not use agency resources for personal or political benefit.
- Represent the official positions of the agency to the best of your ability when authorized to do so.
- Explicitly state that your personal opinions do not represent the agency's position and do not allow the inference that they do.
- Take responsibility for your own actions even when it is uncomfortable to do so.
- Do not use information you acquire in your public capacity for personal advantage.
- Do not promise that which you have reason to believe is unrealistic.
- Disclose suspected instances of impropriety to the appropriate authorities, and avoid false charges for political advantage.
- Do not disclose confidential information without proper legal authorization.
- Be proactive and innovative when setting goals and considering policies.

*Respect and Public Service: What It Means*

- Treat fellow officials, staff and public with courtesy, even when you disagree with them.
- Focus on the merits in discussions, not personality traits or other issues that might distract you from focusing on what is best for the community.
- Search for value from diverse opinions and build consensus.
- Follow through on commitments, keep others informed, and make timely responses.
- Be approachable and open-minded.
- Listen carefully and ask questions that add value to discussions.
- Involve all appropriate stakeholders in meetings affecting agency.

**Scope of Public Service Ethics Laws**

The goal of this section is to alert you to the kinds of situations that raise potential issues under ethics

law principles. Laws may be complex and more than one may apply to a given situation. Ethics fall into four categories.

- Personal and financial gain
- Personal advantages and perks
- Governmental transparency
- Fair processes

### **Personal Financial Gain**

Public servants should not benefit financially from their positions. No personal gain laws include:

- **Prohibition against acquiring property in redevelopment areas**
- **Bribery prohibitions**-not just cash, any benefit not available to others. Penalties and costs are high.
- **Revolving door restrictions**- prohibits top level managers from representing people for pay before their former agencies for one year after leaving the agency.
- **Financial interest disqualification requirements**- You may not participate in a decision if your economic interests could be affected by the decision-note that this includes trying to influence the decision in any way. Keep in mind that it doesn't matter if you make a decision that hurts your economic interests- you can still be in violation of the law if you participate in the decision.

### **Steps to Take if You Are Disqualified from Participating in a Decision**

- Remember that the prohibition is very broad; you cannot attempt to influence the decision in any way. This includes talking with your colleagues or staff about the matter.
- At the meeting, city council members, county supervisors, planning commissioners and top staff members will typically need to leave the room when the matter is up for decision (unless the matter is on consent, in which case you must not vote)- this may be good practice for comparable officials at special districts as well.

### **Penalties for Not Disqualifying Oneself**

- The decision could be invalidated (nullified).
- The offense can be prosecuted as a misdemeanor (conviction could result in the official being removed from office).
- The official faces having to personally pay fines of \$5,000 to \$10,000 per offense.
- The official also faces having to hire an attorney to help defend him or herself. Also, if the action to enforce the conflict of interest laws is brought by a private individual and that individual wins, the official may have to pay the individual's attorneys fees.
- There's also the embarrassment factor associated with being accused or found guilty of violating the law (personal/political).

### **Special Rules for Contracts**

- If you are a member of a board and you have an interest in a contract involving your board, the contract cannot be entered into unless a specific legal exception applies to your situation. The fact that you disqualify yourself may not be enough.
- If you are an employee, the contract can still be made so long as you disqualify yourself from every aspect of the contract-making process.

## Penalties for Being on Both Sides of a Contract

- The agreement is invalid. This means that the offending official won't get paid for whatever goods, services or property were provided (in one case, this resulted in the official basically giving valuable property on the San Francisco Bay to his city for free).
- The offense can be prosecuted as a felony, which can result in fines, imprisonment, and loss of office.

## Beyond Legal Minimums

- If your agency attorney advises you that you cannot participate in a decision, you must disqualify yourself or seek the Fair Political Practices Commission's advice regarding how the conflict of interest disqualification rules of the Political Reform Act apply to you.
- If your agency attorney advises you that the law permits you to participate in a decision, your analysis is not over.
- Ask yourself whether your constituents will reasonably question your ability to put your personal interests and relationships aside and put their, the public's interests first. You can decide to voluntarily abstain if you are concerned that your constituents would reasonably question the integrity of your decision.
- Remember the law is a floor, not a ceiling, for public service ethics.

## What Kind of Financial Situations Do You Need to Worry About?

If a decision or an action by the public agency may affect (positively or negatively), your or your immediate family's (spouse/domestic partner and dependent children) income, assets, expenses or liabilities.

- Make all decisions with only the public's interests in mind.
- Consider carefully if a decision before you may have a benefit on you or your interests.
- Consider very carefully whether receiving a particular benefit is worth the risk someone will try to correlate it with your actions as a decision-maker.

If a decision or an action by the public agency may affect (positively or negatively) someone who gives or has given you money, including:

- **Your Sources of Income.** Any source of income of \$500 or more (including promised income) during the prior 12 months for you or spouse/domestic partner.
- **A Lender/Loan Guarantor.** A source of a loan (including a loan guarantor) to you.
- **Campaign Contributor.** A campaign contributor of yours (if you are sitting on as an appointed member of a decision-making body).

If a decision or an action by the public agency may affect (positively or negatively), your property interests including:

- A direct or indirect interest to you, your immediate family (spouse/domestic partner and dependent children), or your business interests have; and
- Such interests as ownership, leaseholds, and options-to-purchase.

Note that the disqualification rules are especially strict if you have property interests within

500 feet of the subject of your decision.

If a decision or an action by the public agency may affect (positively or negatively), your business or investment interests, including:

- Any business for which you serve as a director, officer, partner, trustee, employee, or manager.
- Any business in which you or your immediate family (spouse/domestic partner and dependent children), have a direct or indirect investment. This includes businesses that are parents, subsidiaries or are otherwise related to organizations that may be affected by your decision.

If the decision involves someone who has given you a gift.

- Keep in mind that the definition of “gift” is very broad and includes anything someone gave you that conveys a personal benefit for which you didn’t provide equal or greater value.
- Examples include meals and hospitality, tickets to sporting events, entertainment, some forms of travel.

Talk with your agency attorney when an action or a decision may affect (positively or negatively) someone who has given you one or more gifts with a total of \$470 or more than the limit designated annually to you in the prior 12 months, including promised gifts. **“No Perks” Rules**

Public servants should not receive special benefits beyond the compensation provided by law for being in public service, either from those who may seek to curry favor with them or at taxpayers’ expense.

### **Perks that Others Offer You**

As a public servant, you may find people or firms offering you such things as:

**Gifts**, which includes meals, tickets to sporting or other entertainment events, trips, informational material and items that are more commonly thought of as gifts (holiday gifts, etc.). If you do decide to accept gifts, develop a tracking system to enable you to comply with laws.

- Some kinds of items are excluded from gift rules, for example, informational materials, personalized plaques with a value under \$250 and gifts of hospitality at a person’s home when the person is present, gifts between family members and gifts of approximately equal value exchanged on birthdays, holidays, and similar occasions.
- The ethics laws require you to report on your Statement of Economics Interests all gifts you receive from a single source that add up to \$50 or more over the course of a calendar year.
- State law sets annual limits on the value of gifts an official may accept from a single source during a calendar year. In 2017-2018, the limit is \$3470.
- You may also have to disqualify yourself from participating in a decision involving someone who has given you gifts that exceed the gift limit (in 2017-2018, \$470) in the prior 12 months (for example, a \$300 holiday gift that you did not reciprocate in December, followed by a ticket to a \$300 sporting event, when the gift giver comes before you in February).
- Refer to the Fair Political Practices Commission website <http://www.fppc.ca.gov/> for current limits.

### **What to Do About Unwanted Gifts?**

Some officials go beyond the requirements of the law and simply decline all gifts, so no one will ever question whether their receipt of gifts influenced their decision. Whether you want to take this approach or not, you can also do the following with unwanted gifts within 30 days of receiving them:

- Return the gift unused;
- Deliver the gift to a nonprofit 501(c)(3) organization without claiming the donation as a deduction on your income taxes; or
- Reimburse the gift-giver the fair market value for the gift.

### **Other Things to Know About Gifts**

- Special rules apply to travel payments and meals received in conjunction with giving a speech or participating in a panel.
- State law generally prohibits officials from receiving a fee for giving a speech or writing an article or attending a public or private conference, convention, meeting, social event, meal or similar gathering. This is known as the honorarium prohibition.
- Free transportation offered to anyone, regardless of their status as public officials, is not subject to this prohibition (an example would be frequent flyer programs).
- The prohibition/penalty applies to elected and appointed officials, but not to employees.
- Acceptance of free, upgraded or discounted transportation from transportation companies results in an automatic forfeiture of (removal from) office.

### **Consequences of Disregarding Gift Rules**

- Those who disregard the gift limits and reporting requirements face a penalty of up to \$5,000 per violation and attorney fees.

### **Use of Public Resources Issues**

- The basic rule to keep in mind is that the personal and political use of public resources is strictly prohibited.

#### **Things to Do to Stay Out of Trouble**

Familiarize yourself with your agency's expense reimbursement policies/limits. When submitting reimbursement requests, carefully document your compliance with those policies. Treat the agency's resources as wisely and frugally as you would your own.

Do not use agency equipment (for example, telephones, computers, photocopying machines) or supplies (for example, letterhead or other forms of office supplies) for personal or political purposes no matter how worthwhile these purposes may seem.

**Consequences** include fines civil and criminal penalties

### **Governmental Transparency Laws**

The principle underlying the governmental transparency laws is that public officials transact their business in public. This gives the public an opportunity to monitor and participate in the government

agency's decisions. Also, the public trusts a process it can see.

## **Economic Interest Disclosure**

- Activities of the individual- economic, charitable, campaign
  - Sources of income;
  - Interests in real property;
  - Investments;
  - Business positions; and
  - Source of Gifts

This disclosure is made on forms called both "Statements of Economic Interests" and "Form 700's"

## **Non- Disclosure Penalties**

- The offense can be prosecuted as a misdemeanor (conviction could result in the official's being removed from office).
- The official faces having to personally pay fines \$5,000 to \$10,000 per offense.

## **Conducting the Public's Business in Public**

- California's open meeting laws require that boards and commissions be open to the public.
- Decision-making bodies-which include the governing board as well as many communities and advisory bodies-, must conduct their business in an open and public meeting to assure the public is fully informed about local decisions.
- **Meetings.** A "meeting" is any situation involving a majority of the governing body in which business is transacted or discussed. In other words, a majority of the governing body cannot talk privately about an issue that is before the body no matter how the conversation occurs, whether by telephone, e-mail or at a local coffee shop.
- **Serial Meetings.** One thing to watch for is unintentionally creating a "serial" meeting- a series of communications that result in a majority of governing body members having conferred on an issue.

*For example, if two members of a five- member governing body consult outside of a public meeting (which is not in and of itself a violation) and then one of those individuals consults with a third member on the same issue, a majority of the body has consulted on the same issue.*

*Note the communication does not need to be in person and can occur through a third party. For example, sending or forwarding e-mail can be sufficient to create a serial meeting, as can a staff member acting as an intermediary in facilitating communications among a majority of the body.*

## **Case Study: Open Meetings and Electronic Devices**

**When a quorum of a body (three in the case of a five-member body) participates in communications through an intermediary or technological device, they are participating in a meeting. If that meeting is not properly noticed and accessible to the public, it is in violation of the law.**

- **Permissible Gatherings.** Not every gathering of governing bodies is a problem. For example, a majority of the governing body may attend the same educational conference or a community meeting not organized by the local agency. Nor is attendance at a social or ceremonial event in and of itself a violation.
- **The Rule to Keep in Mind** is a majority of the governing body members cannot meet and discuss agency business except at an open and fully noticed public meeting.
- **Closed Sessions.** The open meeting laws include provisions for closed discussions under very limited circumstances. Any closed session must be specifically permitted by these laws; closed sessions cannot occur merely because a subject is “confidential” or “sensitive”. County counsel should be consulted if a closed session is requested.

### **The Public’s Right to Participate in Meetings**

Another element of open meeting laws is the public’s right to address the governing body. In other words, the law gives the public a seat at the table where the public’s business is being conducted. A public official’s role is to both hear and evaluate these concerns. There are a number of basic rules that govern this right.

- **Posting and Following the Agenda.** The open meeting laws require the public be informed of the time of the issues to be addressed at each meeting.
- **The Public’s Right to be Heard.** Generally, every agenda must provide an opportunity for the public to address the governing body on any item of interest to the public within the body’s jurisdiction. If the issue of concern is one pending before the legislative body, the opportunity must be provided before or during the body’s consideration of that issue.
- **Reasonable Time Limits May be Imposed.** Local agencies may adopt reasonable regulations to ensure everyone has an opportunity to be heard in an orderly manner.

### **The Public’s Right to Access Records**

- Copies of the agenda materials and other documents distributed to the governing body must also be made promptly available to the public.
- In addition to observing the meetings of government boards and commissions, the public has the right to request public records from any government agency. These materials include any writing that was prepared, owned, used or retained by a public agency. They include documents, computer data, e-mails, facsimiles, and photographs.
- Although there are exceptions to a public agency’s duty to disclose records, a safe practice is to assume that virtually all materials involved in one’s service on the governing body- including e-mails- are public records subject to disclose.

### **Consequences of Disregarding Open Government Laws**

Violating the open meetings laws or the Public Records Act can have significant consequences, which includes:

- Invalidating/Nullifying any decision made in violation of the open meetings laws.
- Criminal sanctions for intentional violations of the open meeting laws (up to 6 months in jail/ \$1,000 fine).

- The prospect of the agency having to pay for attorney's fees to defend challenges, as well as possibly paying for attorney's fees of those who successfully sue the agency.

### **Best Practices**

- Assume all information is public or will become public.
- Don't discuss agency business with fellow board members outside meetings.

### **Fair Process Laws**

The principle underlying the fair process laws is the notion that everyone has a right to be treated fairly by governmental processes, irrespective of who they are or whom they know. The public's perception that decisions are made fairly is an important element of the public's confidence and trust in government and individual public officials.

#### **The Obligation to be a Fair and Unbiased Decision-Maker**

Typically, having the official who may have exhibited bias disqualify himself or herself solves the problem. The agency will have to conduct new proceedings free of the influence of the biased decision-maker. If the violation rises to the level of a denial of due process under constitutional law, the affected individual(s) may seek damages, costs and attorneys fees.

At least one court has ruled that officials' perceived inattentiveness during a hearing violated due process principles.

Non-financial interests can make participation in a decision improper if one has a personal interest in the outcome that causes observers to reasonably question the decision-maker's ability to be fair and impartial.

#### **Campaign Contributions and Bias**

Generally, the ethics laws with respect to campaign contributions emphasize disclosure rather than disqualification. The emphasis on disclosure enables the public to assess for itself the degree an official could be influenced by campaign contributors who appear before the agency. Both financial and in-kind support must be disclosed.

#### **Holding Multiple Public Offices**

Offices are incompatible if there is any significant clash of duties or loyalties between the offices or if either officer exercises a supervisory, auditory, or removal power over the other. Note there can be specific legislative exceptions to general legal prohibitions against incompatible offices.

#### **Competitive Bidding Processes for Public Contracts**

Public contracting laws- including those adopted at the local level- are designed to give all interested parties the opportunity to do business with the government on an equal basis. This keeps contracts from being steered to businesses or individuals because of political connections, friendship, favoritism, corruption or other factors. It also assures that the public receives the best value for its money by promoting competition among businesses so the public can receive the best deal.

Many competitive bidding requirements are locally imposed, for example by charter cities as part of their municipal affairs authority. State law also authorizes local agencies to adopt procedures for acquisition of supplies and equipment. Most of these purchasing ordinances require competitive bids for contracts in excess of designated dollar amount.

For public works projects, state law defines when general law cities and counties must use competitive bidding. Note that it is a misdemeanor to split projects to avoid competitive bidding requirements. In order to give all interested parties an opportunity to do business with the agency and get the best price for the public, the agency has to publicize the opportunity.

### **Decisions Involving Family Members**

It can be wise to avoid questions about family relationship by voluntarily not participating in decisions that affect family members, even if the law or local agency regulations allow you to participate.

## **Section 3 – Open Meeting Law – Ralph M. Brown Act**

## OPEN MEETING LAW (BROWN ACT) REQUIREMENTS

California's open meeting law, known as the Brown Act, requires that boards and commissions be open to the public. Decision-making bodies, which include the governing board as well as many communities and advisory bodies, must conduct their business in an open and public meeting to assure the public is fully informed about local decisions.

1. The General Rule: Meetings of legislative bodies of local agencies must be public and agendized beforehand where all can attend, state their views, and where the statutory notice requirements of the Brown Act are satisfied.

2. The "Meeting": A "Meeting" is any gathering of a "quorum" (majority) of a "legislative body"; where any business of the local Zone of Benefit Committee is discussed by a majority of the committee in one location, there is a "meeting" subject to the Brown Act. The meeting can be regularly held, a special meeting, an informal meeting, a social gathering, etc.

A "meeting" also occurs when a quorum of members of the Advisory Committee participate in a "serial meeting," wherein the members engage in a series of discussions (either directly, through personal intermediaries, or through technological devices such as texting or e-mail) for the purpose of developing a concurrence as to action to be taken. For instance, for a five-member board, a meeting occurs when Member A separately communicates with Members B and C in order to obtain concurrence. Such "meetings" are subject to the Brown Act, including the notice and agenda requirements discussed below.

3. Notice Required: The Zone of Benefit Committees are advisory bodies to the Board of Supervisors for their zones. Advisory Bodies should set regular meeting time(s) through by-laws or other official actions. No further regular hearing notice to the general public is required by law. Agendas for each meeting must be posted at least 72 hours before that regular meeting in a location freely accessible to members of the public. At the time the agenda is posted or upon distribution to the members of the Advisory Committee, whichever comes first, the Advisory Committee must mail the agenda to any person who has made a written request for receive the agenda by mail. Such a request is only valid for the calendar year in which it was made and must be renewed the following year.

4. Agendas and Committee Actions: The law requires each committee to prepare an agenda for each meeting. The agenda must have a brief general description [generally not to exceed twenty words] of each item of business to be transacted or discussed at the meeting. Anyone in the Zone may place an item on the agenda for a particular meeting. This includes road improvements/maintenance to be or being performed, etc. The committees may not take any action on a non-agendized item unless one of the three situations exists:

- (a) An emergency situation exists;
- (b) Two-thirds of the committee determine that the need to act arose after the agenda was posted;
- (c) When a current item first appeared on an agenda from a meeting held five days or less before.

These exceptions to the general rule must not be abused or lightly used by a committee.

5. Public Attendance and Speaking Rights. Meetings must be held at a location that (1) does not discriminate on the basis of race, religion, color, national origin, ancestry, or gender and (2) is accessible to disabled persons. The general public is allowed to attend any public zone of benefit committee meeting, whether or not they are landowners or homeowners in the particular zone. The Advisory Committee cannot, as a condition of attending the meeting, require a member of the public to register, fill out a questionnaire, or sign an attendance list. Similarly, all members of the attending public have the right to speak at any such meeting, regardless of their status with regard to the particular zone. The public has the right to speak on any topic within the power of the zone committee, whether or not the chosen topic is agendaized beforehand. If a non-agendaized topic is raised by the public, the best course is to listen and refer the topic to a future meeting as an agendaized matter if it warrants further committee discussion and/or action. Alternatively, the committee may (by two-thirds (2/3) vote) agree to discuss the matter as a need arising after the agenda was prepared. The zone committee has the authority to expel unruly or disruptive members of the public if their behavior hinders proceedings.

6. Closed Meetings. Advisory Committees should very rarely need to meet in closed session (i.e., a meeting that is *not* open to the general public). Such closed session meetings are allowed for very limited purposes, such as discussions with counsel concerning potential litigation involving the zone. Please contact the Community Development Agency for additional guidance on this issue.

7. Remedies and Enforcement.

(a) Brown Act violations are criminal misdemeanors for the zone committee members involved. The actions taken in violation of the law are not themselves invalidated by criminal complaints. Criminal liability is based on the committee members' mere participation in the illegal meeting and his or her knowledge that the law is being violated. The local District Attorney would file criminal charges.

(b) Any person or entity can file an action in Superior Court to either stop or prevent violations or to have committee conduct declared illegal. Violations not in substantial compliance with the open meeting notice and agenda requirements could invalidate the actions taken at those meetings. Violations of other Brown Act provisions would generally not affect the validity of actions taken. Depending upon the circumstances, Brown Act procedures required that the complainant first complain to the zone committee within either thirty (30) days or ninety (90) days after an action before going to court. The committee then has thirty (30) days to "cure and correct" its action. If no cure and correction is done, a lawsuit must be filed within fifteen (15) days thereafter. If a committee action is not challenged within thirty (30) days, it may not be later invalidated by a civil lawsuit.

(c) Certain types of actions or decisions taken may not be invalidated for Brown Act violations under any circumstances. These types of actions, relevant to zone committees, are:

- i. Actions creating contract obligations, including those let by competitive bidding;
- ii. Actions related to the collection of taxes.

8. If zone committee members have further questions regarding the Brown Act not answered above, please contact the County department responsible for administration of zones of benefit.

## THE BROWN ACT LEGISLATIVE REFERENCES

The Ralph M. Brown Act passed by the California State Legislators is updated annually. A complete copy of the Brown Act is on file with the Community Development Agency. The key elements of the Act are summarized and legislative references provided.

### **PURPOSE, § 54950**

One of the most important elements of the Brown Act is that all aspects of the decision-making process, from discussion to voting should be open to public scrutiny. “*Open decisions, openly arrived at*”.

### **NOT INLCUED, § 54952.2**

Meetings do not include:

- individual conversations between advisory committee members and another person;
- attendance of a quorum of the advisory committee members at a publicized meeting organized to address a topic of local concern by a person or organization other than themselves, *provided that quorum does not discuss zone business.*

### **MEETINGS, § 54954.1, 54954.2, 54954.3**

Each zone advisory committee is required by law to provide a time, date and place for regular meetings, for example, the El Dorado County Board of Supervisors meets every Tuesday at 9:00 a.m. This should be published yearly.

### **NOTICE, § 54954.1**

Notice and agenda packets need only be mailed to those who have filed a written request for such information. Such requests are valid for the calendar year in which made and must be renewed after January 1 of the following year.

NOTE: The County makes such a request to each zone advisory committee in the first week of January each year.

### **AGENDAS, § 54954.2**

An agenda must be posted in a location that is freely accessible to the public at least 72 hours before each regular meeting. It should contain a brief general description of each item of business and the date, time and place of the meeting.

### **NON-AGENDIZED ITEMS, § 54954.2**

No decision may be made on an item not on the posted agenda. However, during the public comment segment of the meeting, questions from the general public may be answered.

If, however, the advisory committee determines there is a need to take immediate action on at item that comes to light after the agenda has been posted, any action taken must be approved by a 2/3 majority vote of the advisory committee, or unanimously of less than 2/3 of the advisory committee members are present.

### **DISORDERLY CONDUCT, § 54957.9**

Sometimes and individual or group can become disruptive at meetings. If they fail to comply with the advisory committee chair's request to be quiet, and the advisory committee has given them an opportunity to be heard, they may be physically removed from the meeting. It is best to have this done by a law enforcement officer. Setting a time limit for each speaker will help to avoid this situation.

*Sample Agenda – must be posted 72 hours prior to start of meeting. The ADA notice is required on each agenda in exactly the format given.*

## **HAPPY CAMPERS ROAD ZONE OF BENEFIT**

Regular Advisory Committee Meeting

Thursday, August 32, 2001

8:30 P.M.

Smokey Fire Station #237

1234 Ash Lane

Hidden Valley, California 98456.

Advisory Committee:

Jane Calamatini      Rolph Herriman      Sal Manella  
Richard Tracy      Chris Cross

### **AGENDA:**

- 1. Call to Order.**
- 2. Consideration of minutes of previous meeting.**
- 3. Additions to Agenda** – Items added to the agenda must be approved by the Advisory Committee pursuant to Government Code Section 54954.2.
- 4. Public Comment** –any person may address the Committee at this time upon any subject within the jurisdiction of the Happy Campers Road Zone of Benefit Advisory Committee; however, any matter that requires action will be included on the agenda of the next regular meeting of the Committee.
- 5. Business:**
  - a. **Correspondence:** the Committee will consider correspondence received since the last Advisory Committee meeting, and formulate a response.
  - b. **Grading and graveling on Honeymoon Flats Road;** consideration of quotes.
  - c. **Repair of sink hole on Sunnyside Drive.**
  - d. **Cost of future paving projects - bid or not bid?**
- 6. Reports:**
  - a. Reading of Budget Summary from County
  - b. Ad Hoc Committee on Increasing Resident Participation
  - c. Ad Hoc Committee on Decreasing County Administrative Charges.
- 7. Future Agenda Topics:** This item is to provide the Committee Members an opportunity to request items to be placed on future agendas.
- 8. Adjournment** – Next Regular Advisory Committee Meeting – December 4, 2000.

*In compliance with the Americans with Disabilities Act, if you are a disabled person and need disability related modification of accommodation to participate in the meeting, please contact Jane Calamatini at (530)555-4444. Requests must be made as early as possible, and at least one full business day before the start of the meeting.*

*Sample Notice for mailing, also post with agenda 72 hours prior to start of meeting. Include the ADA statement in exactly the format given. Do not distribute Agenda or Notices strictly via email.*

# **NOTICE:**

## **HAPPY CAMPERS ROAD ZONE OF BENEFIT**

**Regular Advisory Committee Meeting**

**Thursday, August 32, 2001**

**8:30 P.M.**

**Smokey Fire Station #237**

**1234 Ash Lane**

**Hidden Valley, California 98456.**

(The paragraph below **as worded** is required on each posted NOTICE – and requires a name and telephone number for contact.)

*Copies of the Agenda may be obtained by calling Jane Calamatini at (530)555-4444. In compliance with the Americans with Disabilities Act, if you are a disabled person and need disability related modification of accommodation to participate in the meeting, please contact Jane Calamatini at (530)555-4444. Requests must be made as early as possible, and at least one full business day before the start of the meeting.*

## **Section 4 – Road Maintenance and Repair Guidelines**

## **ROAD MAINTENANCE AND REPAIR GUIDLELINE OVERVIEW**

Advisory committee members are responsible for making recommendations regarding the appropriate maintenance and repair work to be performed in the zone of benefit. The information in this section has been developed to assist advisory committee members in obtaining the detailed information necessary to develop a contract for work in their zones.

While advisory committee members may meet with contractors to determine the specifications for work to be performed, the authority to enter into a contract for work lies with the Board of Supervisors or with the officers or employees within the County who are delegated that responsibility.

The sample construction details in this section provide a guide for describing the type of work to be completed. The development of a scope of work for the contract will be expedited if the description of the work locations, type of material, quantity and type of work are clearly defined.

## **SAMPLE CONSTRUCTION DETAILS**

### **AGGREGATE BASE**

The work shall consist of providing all labor, materials and equipment to install aggregate base on designated roadways. Material shall be Class 2, ¾ inch maximum installed to a depth of four (4) inches rolled and compacted to no less than 90% relative density. In preparation for double chip seal, the aggregate base shall be rolled, watered.

Measurement of aggregate base shall be made by the ton. Verification of weights shall be made by submittal of all weight tickets from the plant of origin. All weight tickets shall clearly indicate tare weight. Material shall be in conformance with Section 26 of the Standard Specifications. Testing for compaction compliance shall be at the discretion of the County upon recommendation of the Road Zone Advisory Committee.

### **ASPHALT CONCRETE**

The asphalt concrete mix shall conform to Sections 39 and 92 of the Standard Specifications. Asphalt cement shall be PG 64-16 or equivalent. The aggregate shall be 3/4" Maximum, Medium Grade Type A.

### **ASPHALT CONCRETE SWALE FILL**

This work consists of providing all labor, materials and equipment for filling, with asphalt concrete, a swale in an existing roadway to eliminate drainage across the road surface. The area to be filled is 70 feet long and 10 feet wide. The depth of the fill will vary from 0 to 15 inches across fill area. The work shall include cleaning the existing roadway, application of SS1 or equivalent tack coat; and application of asphalt concrete in 3 inch lifts, in accordance with Section 39 of the Standard Specifications to a depth of 0 to 15 inches as required to accomplish the fill. Aggregate size shall be ¾ inch maximum; asphalt cement shall be PG 64-16 or equivalent.

### **ASPHALT LEVELING COURSE**

Asphalt concrete to a compacted depth of one (1) inch to (3) inches depending on conditions in the field shall be used in accordance with the Asphalt Concrete section of these special provisions to level the road surface in preparation for pavement.

### **CHIP SEAL – Single Chip Seal Application**

This work shall consist of providing all labor, materials and equipment for application of asphaltic emulsion and screening. Measurement of bituminous seals shall be per square foot. Where a single chip seal over a dirt or gravel surface is indicated, the asphalt emulsions shall be a type SC800 and spread at the rate of .25 to .40 gallons per square yard with adjustments to spread rates in the field based on conditions. Where a single chip seal over a paved surface is indicated, the asphalt emulsions shall be a type Polymer or Latex Modified CRS 2H and spread at the rate of .25 to .40 gallons per square yard with adjustments to spread rates in the field based on conditions. The temperature of the emulsion shall be between 130 degrees and 180 degrees Fahrenheit. Atmospheric temperatures shall be a minimum of 65 degrees Fahrenheit and not greater than 110 degrees Fahrenheit. Aggregate (chip) screenings

shall be 3/8" x No.6 and spread at a rate of 20 to 30 pounds per square yard for each application, with adjustments to spread rate in the field based on conditions. Chips shall be free of dust and other deleterious materials. Excess chips shall be swept within forty-eight (48) hours of application.

### **CHIP SEAL - Double Chip Seal Application**

This work shall consist of providing all labor, materials and equipment to apply double chip seal over aggregate base. The first application of asphaltic emulsions shall be a type CRS2 and spread at the rate of .25 to .30 gallons per square yard. The second application shall be CRS2 with an application rate of .25 to .30 gallons per square yard with adjustments to spread rates in the field based on conditions. The temperature of the emulsion shall be between 130° and 180° Fahrenheit at the time of application. Atmospheric temperatures shall be a minimum of 65° Fahrenheit. Aggregate (chip) screenings shall be 3/8" x No.6 and spread at a rate of 22 to 25 pounds per square yard for each application, with adjustments to spread rate in the field based on conditions. Chip seal shall be rolled with a rubber tire roller and swept when cured, between two and four weeks after application. Chips shall be free of dust and other deleterious materials. Double chip seal must tie smoothly in with existing paved surfaces.

### **CHIP SEAL – Double Chip Seal Application with Fabric**

The work shall consist of all labor, materials and equipment for application of double chip seal with fabric application and shall include paving asphalt binder, pavement fabric and first and second application of chip seal.

The fabric used for this process shall be a needle-punched, thermally bonded on one side, 100% polypropylene staple fiber fabric that conforms to the following properties:

Tensile Strength, either direction (lbs./kn) ASTM D-4632	101 minimum
Elongation at Break, either direction, (%) ASTM D-4632	50 minimum
Mullen Burst Strength, (PSI) ASTM D-3786	180 minimum
Weight (oz/SY) ASTM D-3776	4.1 minimum
Asphalt Retention by Fabric (Oz/SY) minimum ASTM D-6140	26.9-oz/SY residual

The pavement shall be clean and dry prior to any operations. Loose materials shall be swept off and weeds shall be removed from all cracks. Cracks in excess of 1/4 inch in width shall be filled with a hot melt, polymer-modified-asphalt crack sealant such as Henry #93 Duroflex or equal. Fabric binder shall not be placed when weather conditions will not remain suitable to complete the fabric and chip placement.

Pavement fabric shall be machine place in paving asphalt binder having an original viscosity of 3750 poise at 140 degrees Fahrenheit applied at the rate of .30 to .35 gallons per square yard. The amount of paving asphalt used will be determined by the in the field depending upon the estimated absorption of the asphalt into the surface due to the relative percentage of

existing cracks. The mat shall be rolled using pneumatic rollers until completely embedded into the oil. This may take several passes depending on ambient temperatures.

The mat may be sanded using dry sand applied at a rate of 3 to 6 pounds per square yard prior to rolling or a parting agent may be used on the roller tires. If sand is used, it shall remain in place until immediately prior to the application of chips. All sand must be swept clean prior to application of chip emulsion. Excess pieces of mat not attached to the oil shall be trimmed off. Wrinkles in the mat caused by any means shall not be permitted. Longitudinal joints shall be lapped two to four inches. Transverse joints shall be butt joints. Overlapping the mat will not be permitted in these joints. Mat shall be placed within six inches of gutters unless otherwise directed by the zone of benefit Advisory Committee member.

Minimum air temperature for fabric installation is 60 degrees Fahrenheit and rising with a corresponding minimum pavement temperature of 55 degrees Fahrenheit. Binder shall not be placed on wet or damp pavement. The paving asphalt shall be applied at a temperature of not less than 285 degrees Fahrenheit and not more than 325 degrees Fahrenheit. Minimum air and ground temperatures for the placement of the chip seal shall be per the Standard Specifications.

The first chip seal application shall be performed within 72 hours of the placement of the fabric. All loose materials shall be removed prior to emulsion application. The bituminous material used for the chip seal shall be Polymer or Latex Modified CRS 2H. This emulsion shall be applied at the rate of .30 to .40 gallons per square yard over the paving fabric, depending on the relative success of complete saturation of the mat into the paving asphalt. If the ground temperature is warm enough to cause sticking of the fabric to the tires of the distributor truck, a parting agent may be used on the tires, or, alternatively, an application of 2 to 4 pounds per square yard of 3/8" x No.6 chips may be placed on the mat prior to the application of the emulsion. These chips need not be swept off prior to emulsion application if the chips are kept within this range of coverage. After the emulsion application, 3/8" x No. 6 chips shall be placed at the rate of 22 to 27 pounds per square yard in accordance with Section 37 of the Standard Specifications. Pneumatic tired rollers shall be used to embed the chips. A minimum of five coverages at a maximum roller speed of 10 miles per hour will be required. Cul-de-sacs, dead end streets and the parking areas along streets wider than 26 feet will receive an additional 10 coverages. Sufficient rollers shall be used to complete these required coverage' before the end of each day's operation.

The second chip seal shall be placed within 24 hours of the first chip seal. All loose chips will be swept off prior to the application of the emulsion. The same emulsion used on the first application above will be applied at a rate of .30 to .35 gallons per square yard. 5/16" x No. 8 chips shall be placed at a rate of 20 to 25 pounds per square yard. Rolling shall proceed as described above.

All certificates of compliance for the mat and emulsion will be supplied to the zone of benefit Advisory Committee

## **CLEARING AND GRUBBING**

Removal of all trees and or brush necessary to perform the work described herein shall be in accordance with Section 16, "Clearing and Grubbing" of the Standard Specifications. Said

brush and trees will be removed from the worksite and properly disposed of by the Contractor at no additional cost to the County.

## **CRACKSEALING**

The work shall consist of providing all labor, materials and equipment for filling approximately \_\_\_\_\_ linear feet of existing cracks, which measure one fourth (1/4) inch or greater in width, with hot rubberized crack filler, to the existing road surface.

## **EARTHWORK**

All excavation, embankment and backfill shall conform to the provisions in Section 19,"Earthwork," of the Standard Specifications except as modified below:

Trench backfill within the roadway shall be three inches minus and compacted to a relative compaction of not less than 90% in lieu of the 95% requirement in the sixth paragraph of Section 19-3.06, "Structure Backfill" of the Standard Specifications.

## **EROSION CONTROL**

All grading and erosion control shall be in conformance with Chapter 15.14 of the El Dorado County Ordinance Code, "Grading Erosion and Sediment Control."

## **GRADING**

The work shall consist of providing all labor, materials and equipment to grade the designated roadways to provide a smooth and uniform surface for application of aggregate base and double chip seal. Grading shall be performed to allow proper drainage of the road surface.

## **PATCHING – REMOVE AND REPLACE**

This work consists of providing all labor, materials and equipment for repairing potholes in an existing chip seal surface. The potholed area shall be neat cut in a square pattern six (6) inches outside of the outer boundary of the hole and excavated a minimum of four (4) inches. This depth may vary due to the presence of unsuitable materials in the subgrade. If required to provide a stable base for repair, ¾ inch Class 2 aggregate meeting the requirements of Section 26 of the Standard Specifications shall be installed and compacted prior to the installation of asphalt concrete. A tack coat shall be applied and the area filled with asphalt concrete compacted and tying in to the existing road surface.

## **PATCHING – ASPHALT BLANKET**

This work consists of providing all labor, materials and equipment for application of asphalt concrete blanket patch repairs, including but not limited to cleaning existing pot hole area, applying SS1 tack coat or equivalent and hot applying the asphalt patch to tie into existing grade. The patch shall be comprised of asphalt concrete compacted to a depth between one (1) inch and three (3) inches depending on conditions in the field. The existing surface may be either graveled, chip sealed or paved. Materials shall be in accordance with the specifications for asphalt concrete section of these special provisions.

## **Section 5 – Financial Management**

## **BUDGET AND ACCOUNTING**

Reports for the individual budgets and accounts established by the County Auditor-Controller for each zone are made available to a designated member of the advisory committee on a quarterly basis.

Each year during the budget preparation cycle, staff of the County department assigned to administer the zones of benefit reviews the budgets submitted by the advisory committees to ensure all expenditures are accounted for in the budget submittal. The resulting budget is included in the department budget and brought to the Board of Supervisors in the form of a public hearing at the same time as the County's budget is presented.

Section 8 of this Advisory Committee Manual provides specific guidelines on budget preparation.

### **EXPENDITURE OF FUNDS**

The financial management of the zones of benefit is treated as any other department of the County. No expenditures may be made unless the expenditures are supported by actual revenue collections.

Purchases of services and/or supplies on behalf of the zone are be made by the County department assigned to administer the zones of benefit and paid from the zone account. The Purchase Order Request Form found in this section provides the guidelines for making a purchase.

Contracts for work to fulfill the purpose of the zone are be between the contractor and the County on behalf of the zone. Section 6 of this Advisory Committee Manual provides details on the requirements for a County contract for work in a zone of benefit. Notwithstanding the above, advisory committees are encouraged to become actively involved in seeking competitive processes for services and supplies. In instances when formal bids are not required, it is recommended that at least three (3) informal quotes be sought and documented prior to submitting expenditure or contract requests to County staff.

Reimbursements may be made to an advisory committee member from the zone account only for specific items that have been approved by the Board of Supervisors, and only to an advisory committee member for whom a current Certificate of Completion of Ethics Training is on file with the County. The Request for Reimbursement to Advisory Committee Member form found in this section provides the guidelines for making a purchase.

Items eligible for reimbursement are limited to: postage mailing labels, name tags, envelopes, paper, staples, writing implements, adhesive tape, printer cartridges, and photocopying expenses. Original receipts must be presented with requests for reimbursement.

**El Dorado County  
Zone of Benefit Advisory Committee  
Purchase Request Form**

**All purchases need some kind of authorization in advance.**

Purchase Orders are issued to the **supplier**.

**These items require a contract.**

Services

Room Rental

**Rental of Equipment is not authorized.**

**Purchase Order Steps:**

1. Complete the information below. Include the name of Zone Contact **who will pick up** the items, **and/or** the **delivery location** for items to be delivered, such as such as asphalt patch. You may be asked to provide a written quote from the vendor to accompany your purchase request.
2. Contact the County to obtain the purchase order number (e-mail is encouraged).
3. Give PO Number to the supplier or vendor when making purchase.
4. Include the PO number on the *original* invoice.
5. Vendor will send the *original* invoice to the County for payment.

Name of Supplier (Vendor):	
Address:	
Contact Name:	
Phone Number:	
Item(s) to be Purchased:	Dollar Amount (each):
<b>Total:</b>	
<b>Purchase Order Number:</b>	

**El Dorado County  
County Service Area Zone of Benefit**

**Request for Reimbursement to Advisory Committee Member**

- This form is used by Advisory Committee Members to request reimbursement for the specific expenditures listed below.
- *Only the expenditures listed below are eligible for reimbursement. All other expenditures must be made through the County via an approved Purchase Order. Contact Zone Administration with any questions.*
- Only Advisory Committee Members who have completed the AB1234 Ethics Training are eligible to receive reimbursement.

**Items approved by the Board of Supervisors on November 8, 2005 as eligible for reimbursement: Postage, mailing labels, name tags, envelopes, paper, staples, writing implements, adhesive tape, printer cartridges and photocopying expenses.**

Complete this form and attach original receipts; scanned copies are acceptable when sent with this form.

Mail or deliver to:  
Attention: Zone of Benefit Administration  
El Dorado County Department of Transportation  
2580 Fairlane Court  
Placerville CA 95667

I hereby certify that the expenses claimed for the County were necessary for the performance of my duties as an Advisory Committee Member for the

\_\_\_\_\_ Zone of Benefit

Number \_\_\_\_\_ within County Service Area # \_\_\_\_\_, and that no prior claim has been made for any portion thereof.

I have personally made payment for the items included on the attached receipt(s), and each item included is eligible for reimbursement.

Total of receipts; original receipt(s) must be attached:      \$ \_\_\_\_\_

\_\_\_\_\_  
Name – please print.

Mailing Address: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

## **Section 6 – Contracting and Insurance Requirements**

## CONTRACTING REQUIREMENTS

All zone of benefit contract work must be completed by a **licensed contractor who meets the County's insurance requirements, complies with prevailing wage standards, is registered with the Department of Industrial Relations, and who possesses a current El Dorado County business license. PAYMENT and PERFORMANCE BONDS are required on all projects of \$25,000 or more.**

The Key Contact should confirm availability of funds when soliciting quotes. Sufficient funding includes an allowance for the costs of preparing and processing the contract documents. A proposal is submitted to the County. County staff will: 1) ensure funds are available, based on the cash on deposit for the zone at the time the work is to be performed; 2) verify the project is budgeted; 3) clarify scope of work; and 4) initiate authorization for the work, subject to the requirements for the type of work proposed.

Clarification of the scope of work will include County staff's evaluation of the overall character of the work proposed as either Maintenance Services or Public Work, or a combination of both. The County will provide direction.

**Maintenance Services**, that is routine, recurring work to preserve the condition of an existing facility. Where one or more On-Call Maintenance Services Agreements is in place, a work order or task order may be issued from an existing contract.

If a zone desires to use a different Contractor not under an On-Call Agreement:

- Bidding is not required for work totaling \$100,000 or less.
- Approved projects up to \$72,213\*\*: the Purchasing Agent will sign contracts
- Approved projects in excess of \$72,213: the Board of Supervisors will sign contracts. Placing a contract on the Board of Supervisors' Agenda will add approximately four (4) weeks to the processing time until a Notice to Proceed may be issued.
- \*\* As of July 1, 2019. The Purchasing Agent's authority is subject to change annually on July 1.

**Public Work**, that is work to create a new facility, improve an existing facility or fix a failure after damage or injury, is subject to the bidding requirements of the **Public Contract Code**

- Approved projects up to \$60,000: Bidding is not required, zone obtains proposals.
- Approved projects \$60,000.01 to \$200,000: Informal bidding is required. The Key Contact requests County staff to initiate the informal bid process. The contract is awarded to the low bidder.
- Approved projects exceeding \$200,000: **Formal** bidding is required. The Board of Supervisors must adopt the plans, specifications and working details in advance. Once the contract is awarded, the contract must be executed by the Board of Supervisors.

Upon receipt of a fully executed contract, a Notice to Proceed will be issued to the **Contractor** and the **Zone Key Contact**. ***Work may not begin until the Notice to Proceed has been received.*** Once the work is completed, the zone contact should notify the County. Payment will be authorized upon confirmation of Completion by the zone contact and recording of the Notice of Completion. **Emergency work**: Emergency work is subject to approval by County staff. As with all purchase orders and contracts, ***work may not begin until a Notice to Proceed has been received by the Contractor and Zone Key Contact.*** Contractors performing zone emergency work must comply with all County contract requirements (licensing, insurance & prevailing wage).

- Projects not budgeted: Requests for work not indicated in the approved budget require recommendation by a quorum of the advisory committee through minutes of a properly noticed, public meeting reflecting agreement. Sufficient funds must be available; other projects may be overridden to provide necessary funds.

## GENERAL INSURANCE REQUIREMENTS

Contractor shall provide proof of a policy of insurance satisfactory to County's Risk Management Division and documentation evidencing that Contractor maintains insurance that meets the following requirements:

1. Full Workers' Compensation and Employers' Liability Insurance covering all employees of Contractor as required by law in the State of California.
2. Commercial General Liability Insurance of not less than One Million Dollars (\$1,000,000) combined single limit per occurrence for bodily injury and property damage, including but not limited to endorsements for the following coverage: premises, personal injury, operations, products and completed operations, blanket contractual, and independent contractors' liability and a \$2,000,000 aggregate limit.
3. Automobile Liability Insurance of not less than One Million Dollars (\$1,000,000) is required in the event motor vehicles are used by Contractor in performance of the Contract.
4. In the event Contractor is a licensed professional and is performing professional services under this Contract, Professional Liability Insurance is required with a limit of liability of not less than One Million Dollars (\$1,000,000).
5. Explosion, Collapse and Underground coverage is required when the scope of work includes XCU exposures.

### PROOF OF INSURANCE REQUIREMENTS:

1. Contractor shall furnish proof of coverage satisfactory to County's Risk Management Division as evidence that the insurance required herein is being maintained. The insurance will be issued by an insurance company acceptable to County's Risk Management Division, or be provided through partial or total self-insurance likewise acceptable to the Risk Management Division.
2. The County of El Dorado, its officers, officials, employees, and volunteers shall be included as additional insured, but only insofar as the operations under this Agreement are concerned. This provision shall apply to all general and excess liability insurance policies. Proof that County is named additional insured shall be made by providing the Risk Management Division with a certified copy, or other acceptable evidence, of an endorsement to Contractor's insurance policy naming County as additional insured.
3. In the event Contractor cannot provide an occurrence policy, Contractor shall provide insurance covering claims made as a result of performance of this Contract for not less than three (3) years following completion of performance of this Contract.
4. Any deductibles or self-insured retentions must be declared to and approved by County. At the option of County, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects County, its officers, officials, employees and volunteers; or Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.
5. Contractor shall require each of its subcontractors to procure and maintain Commercial General Liability Insurance, Automobile Liability Insurance and Workers' Compensation Insurance of the types and in the amounts specified above, or shall insure the activities of its subcontractors in its own policy in like amounts. Contractor shall also require each of its subcontractors to name Contractor and the County of El Dorado as additional insureds on each subcontractor's general

and excess liability insurance policies. Contractor shall furnish proof of coverage satisfactory to County as evidence that the subcontractor insurance required herein is being maintained.

**INSURANCE NOTIFICATION REQUIREMENTS:**

1. Contractor agrees that no cancellation or material change in any policy shall become effective except upon thirty (30) days prior written notice to County at the office of the Department of Transportation, 2850 Fairlane Court, Placerville, California 95667.
2. Contractor agrees that the insurance required herein shall be in effect at all times during the term of this Agreement, inclusive of the guarantee/warranty period specified herein below. In the event said insurance coverage expires at any time or times during the term of this Contract, Contractor shall immediately provide a new certificate of insurance as evidence of the required insurance coverage. In the event Contractor fails to keep in effect at all times insurance coverage as herein provided, County may, in addition to any other remedies it may have, terminate this Contract upon the occurrence of such event. New certificates of insurance are subject to the approval of County's Risk Management Division.

**ADDITIONAL STANDARDS:** Certificates shall meet such additional standards as may be determined by County's Community Development Agency either independently or in consultation with County's Risk Management Division, as essential for protection of County.

**COMMENCEMENT OF PERFORMANCE:** Contractor shall not commence performance of this Agreement unless and until compliance with each and every requirement of the insurance provisions is achieved.

**MATERIAL BREACH:** Failure of Contractor to maintain the insurance required herein, or to comply with any of the requirements of the insurance provisions, shall constitute a material breach of the entire Agreement.

**REPORTING PROVISIONS:** Any failure to comply with the reporting provisions of the policies shall not affect the coverage provided to County, its officers, officials, employees or volunteers.

**PRIMARY COVERAGE:** Contractor's insurance coverage shall be primary insurance as respects County, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by County, its officers, officials, employees or volunteers shall be in excess of Contractor's insurance and shall not contribute with it.

**PREMIUM PAYMENTS:** The insurance companies shall have no recourse against County, its officers, agents, employees or any of them for payment of any premiums or assessments under any policy issued by any insurance company.

**CONTRACTOR'S OBLIGATIONS:** Contractor's indemnity and other obligations shall not be limited by the insurance required herein and shall survive the expiration of this Agreement.

## **Section 7 – Zone of Benefit Volunteer Work Program**

## **ZONE OF BENEFIT VOLUNTEER WORK PROGRAM**

In March of 1996, the El Dorado County Board of Supervisors approved a program permitting road zones to use volunteers to work in the easements. The purpose of the program is to provide the Advisory Committees with an option to reduce costs associated with maintenance of zone roads. The program requirements and guidelines are as follows:

### **I. PROGRAM REQUIREMENTS**

- The Advisory Committee must approve the scope of work and the intent to proceed.
- The County must approve the project and any related expenditures **prior to the start of the project.**
- All volunteers must be at least eighteen (18) years of age.
- All volunteers must understand and sign the "Agreement and Release Regarding Voluntary Services" for each project.
- The County shall keep all "Agreement and Release Regarding Voluntary Services" for three (3) years following completion of the work.
- All roads must remain open and passable at all times during the work.
- All work must be within the easements only.
- **NO ALCOHOL OR ILLEGAL DRUGS MAY BE PRESENT AT ANY TIME DURING THE COURSE OF THE WORK.** No one should be operating machinery while taking prescribed or over the counter medication that recommends they not operate machinery. Anyone suspected to be under the influence of an illegal or controlled substance is to be dismissed for their own safety and the safety of those around them.

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#### **Approved tasks:**

- cleaning debris from drainage ditches
- filling of potholes
- removing roadside chaparral and weeds
- tree trimming along the roadside
- minor snow removal
- removal of garbage/trash from the road surface or from the side of the road
- installation of Stop signs upon recommendation of the Department of Transportation.

#### **Prohibited tasks:**

- paving of the roads
- other work not specifically approved that may involve work directly on the road surface
- any tasks outside of the road easement

### **II. RECOMMENDED GUIDELINES**

Assign one person to supervise the project. The supervisor's responsibilities shall include:

- 1) completing the "Project Information Sheet", documenting plans for the project
- 2) creating a safe work area for the volunteers and the members of the public (safety clothing, signage during or after work is completed, and/or traffic controls)
- 3) ensuring availability of materials and equipment on site and in good working condition during the duration of work
- 4) monitoring the quality of the work performed
- 5) assigning and providing instruction as needed on the safe and proper use of materials and equipment, including the proper disposal of materials

**COUNTY OF EL DORADO  
DEPARTMENT OF TRANSPORTATION**

AGREEMENT AND RELEASE REGARDING VOLUNTARY SERVICES

I, \_\_\_\_\_, being eighteen years of age or older, hereby agree to participate as a volunteer in performing certain services for the \_\_\_\_\_ Road Zone of Benefit # \_\_\_\_\_, within County Service Area # \_\_\_\_\_, in the County of El Dorado. I will be participating in these activities with the knowledge that there is some risk that I could be injured in the course of performing these services. I have been advised that by RESOLUTION of the Board of Supervisors, it is the policy of the County of El Dorado to NOT cover volunteers as employees of the County for purposes of Workers' Compensation benefits. In addition, the risk management resources of the County do NOT cover the volunteers or others within the work area. I understand that my volunteer participation is subject to my having homeowners' or individual liability insurance coverage in a minimum amount of \$300,000; and represent that such coverage is currently in effect and I will notify the County Risk Manager immediately if such coverage is terminated. I understand that if a claim is paid by the County's insurer or the County or the zone of benefit, for injuries or damages caused by work done by volunteers acting without the County's prior written approval, the County's insurer may subrogate to the homeowner and/or their insurer for recovery. If, however, the work has been given prior written approval, the County's insurance carrier may subrogate only to a volunteer's insurance carrier, if any.

I hereby agree that I, my heirs, guardians, legal representative and assigns will not make a claim against or file an action against the County of El Dorado or any of its agents, officers or employees, for injury or damage resulting from negligence, howsoever caused, by any employee, agent or officer of the County of El Dorado as a result of my participation in this volunteer activity or services. In addition, I hereby release and discharge the County of El Dorado, its agents, officers, and employees from all actions, claims, and demands that I, my heirs, guardians, legal representatives or assigns now have or may hereafter have for injury or damage resulting from participation in these volunteer activities or services.

**I HAVE CAREFULLY READ THIS AGREEMENT AND FULLY UNDERSTAND ITS CONTENTS. I AM AWARE THAT THIS IS A RELEASE OF LIABILITY AND A CONTRACT BETWEEN ME AND THE COUNTY OF EL DORADO, AND I SIGN IT OF MY OWN FREE WILL.**

Signature: \_\_\_\_\_ Witness: \_\_\_\_\_

Dated: \_\_\_\_\_

VOLUNTEER GENERAL INFORMATION

\_\_\_\_\_  
Volunteer Name - First, Last

\_\_\_\_\_  
Emergency contact name - First, Last

\_\_\_\_\_  
Address City

\_\_\_\_\_  
Zip Address City Zip

\_\_\_\_\_  
Home telephone #

\_\_\_\_\_  
Telephone #

Statement of Duties:  
\_\_\_\_\_  
\_\_\_\_\_

**I understand the duties I am to perform as a volunteer for the County of El Dorado as described above and acknowledge that I am physically able to perform these services and that I am not aware of any physical limitations that would preclude me from performing such services.**

Signature: \_\_\_\_\_ Dated: \_\_\_\_\_

**COUNTY OF EL DORADO  
DEPARTMENT OF TRANSPORTATION**

PROJECT INFORMATION SHEET  
(to be completed by the designated project supervisor)

Zone Name:	
Project Supervisor:	
Date(s) project is scheduled:	
Project location:	
Description of work:	
Volunteers to be on site:	
Materials (provide cost estimate):	Source:
Equipment (motorized equipment is not authorized):	Source:
Safety considerations:	
Total costs - not to exceed \$	Date approved by Department of Transportation:

## **Section 8 – Budget Preparation**

## BUDGET PREPARATION INSTRUCTIONS

### Budget Preparation Steps

#### *Step 1 – Estimate the Fund Balance as of the end of the current year*

##### **Worksheet #1** – Estimate the fund balance as of the end of the fiscal year (6/30/20xx)

1. Start with the available fund balance from the management report,
2. **Add** revenue expected before the end of the fiscal year (6/30/20xx)
3. **Subtract** expenditures that will be made by the end of the year (6/30/20xx), consider:
  - i. outstanding work projects, volunteer work;
  - ii. meeting costs including room rentals, allowable office supplies and postage; and
  - iii. remaining interfund charges not paid.
4. Calculate the estimated fund balance as of June 30, 20xx as follows
  - i. **[Fund Balance from report] + [Estimated Revenue through 6/30/20xx] – [Estimated Expenditures through 6/30/20xx] = [Ending Fund Balance] (this is a formula in the electronic worksheet).**
  - ii. The calculated Ending Fund Balance will be used on the Proposed Budget Worksheet #2 in Step 2 below.

#### *Step 2 – Prepare the Proposed Budget for the upcoming fiscal year*

##### **Worksheet #2** – Prepare the Proposed Budget for upcoming fiscal year

1. Bring the estimated fund balance forward from Worksheet #1 (**this cell is linked to Worksheet #1 in the electronic workbook**).
2. Anticipated revenues have been entered based on the current assessment or tax.
2. Enter estimated expenditures for the upcoming fiscal year (see Proposed Budget Guidelines below).

Work Plan – Complete the Work Plan for contract and volunteer work for the coming year.

##### Complete Signature Page/Checklist

1. Provide all documents listed on the checklist in your submittal to the Community Development Agency.

### Proposed Budget Guidelines

#### Estimated Revenue

Keep in mind that the fund balance is the only funding available to the zone as of July 1 of the new fiscal year. Use of the revenue that is anticipated to come in later in the year is considered a loan against anticipated revenue. If expenditures exceed the fund balance less any revenue received, the result is a negative cash balance in the zone fund. Because zone funds are interest bearing, a negative cash balance results in negative interest being accrued. Negative interest reduces the available cash to the zone. Board of Supervisors approval is necessary for an advance against anticipated revenue, and should not be relied on for work in prior to receipt of revenue.

Funds designated for future fiscal year projects may be “saved” through by budgeting for contingency. These practices are covered in the annual budget preparation workshop conducted prior to the advisory committee budget submission deadline.

### Budgeting Expenditures

When you are completing the estimates for both maintenance and administrative expenses, please be realistic.

When completing your work plan, include volunteer projects that you are planning as well as work that you will want to request a contract.

Consider the following:

Insurance charges will be provided by the County.

Office expenses – reimbursable expenses include mailing labels, name tags, postage, envelopes, paper, printer cartridges, photocopying, staples, writing implements and adhesive tape.

As needed contract expenses such as weed abatement, landscape services and snow removal.

Road maintenance and construction including contracts for road maintenance work and materials for volunteer work.

Road materials such as hot or cold asphalt and rock used in volunteer work program.

Cost of public notices will be budgeted if the zone is funded by a benefit assessment, if there will be a bid and/or if an election is planned.

Note: As of Fiscal Year 2013/2014 Rental of equipment for volunteer work is NOT authorized.

Rental of one of the pre-designated meeting rooms for public meetings. Contact the County for available sites.

Election cost if one is planned:

**From 2008: [Base charge of \$345]+[(per voter allowance)x(number of registered votes in the zone)]= Estimated election cost.**

Administrative charges will depend on the amount of time spent on administration for the zone of benefit. If you are planning a bid, additional administrative time is required, as well as an allowance for advertising.

