

**LOST PINES GROUNDWATER CONSERVATION DISTRICT
POLICY REGARDING THE MANAGEMENT OF DISTRICT COMMUNICATIONS
WITH LEGAL CONSULTANT**

I. Purpose

This Policy Regarding the Management of District Communications with Legal Consultant (“Policy”) is intended to streamline the assignment of tasks to the District’s Legal Consultant, encourage the efficient use of legal resources, facilitate the sharing of legal advice to all members of the Board of Directors, and to protect attorney-client privileged Communications.

II. Definitions

For the purposes of this Policy, the following definitions apply:

- a) Client: means the Lost Pines Groundwater Conservation District itself, which includes, when acting on behalf of the District, District employees and the District Board of Directors. The Client does not include individual members of the Board of Directors or individual employees. For a Legal Consultant providing general counsel services, the Client does not include the Board of Directors where the Legal Consultant represents the General Manager in a contested case proceeding. For a Legal Consultant providing services to the Board only, the Client does not include the General Manager where the Legal Consultant represents the Board in a contested case proceeding.
- b) Communication: means any written or verbal exchange of information or discussion between the Client and the Legal Consultant including, emails, telephone calls, video conference calls, online chat features, letters, memorandums, or any other form of exchanging information.
- c) Director: means a member of the District’s Board of Directors.
- d) District Consultant: means any hydrogeologist, hydrologist, auditor, lobbyist, engineer, or specialist of any kind retained by the District.
- e) Employee: means any person currently employed by the District.
- f) Legal Consultant: means any attorney licensed to practice law, including members of an attorney’s firm, retained by the District to perform general counsel services on behalf of the District, or any attorney licensed to practice law retained to provide services to the Board of Directors in a contested case proceeding.

III. Tasks for the Legal Consultant

Legal Consultants shall perform only work which has been expressly authorized by the General Manager or the Governance Committee.

- a) General Manager Requests: For legal services requested related to application reviews for pending permit applications, anticipated applications to be filed with the District, rule interpretation for the General Manager's performance of their duties, or for services related to contested cases where the Legal Consultant represents the General Manager, the General Manager will have full discretion to assign those tasks to the Legal Consultant ("General Manager Requests").
- b) Director Requests: For legal services requested by a Director, Legal Consultant will perform only work expressly authorized by the Governance Committee,¹ or a committee designated by the Board President with authority to manage these requests ("Director Requests"). A Director Request will be made to the President, who will then place the item on the agenda of the next available Governance Committee meeting for consideration and action. Governance Committee approval is not required for Director Requests to the General Manager for staff activities or inquiries that are not legal in nature but, in the judgment of the General Manager, reasonably require the assistance of a legal consultant in responding to the director request.

IV. Communications with the Legal Consultant

- a) Generally, all Communications with Legal Consultants and the Client will occur between the Legal Consultant and the full Board of Directors, the Governance Committee, or the General Manager consistent with all applicable Texas Open Government laws. Legal Consultant will not Communicate directly with individual employee or members of the Board of Directors except as provided in this Policy below.
- b) Employee Communications: District Employees may contact the Legal Consultant, without the Communication going through the Board of Directors, the Governance Committee or the General Manager, seeking review or preparation of District documents, or interpretation of the laws or rules that apply to their routine operations of the District. This includes reviewing or preparing agendas, minutes, notices, or contracts on the agenda for consideration. Employees may also contact Legal Consultants for assistance responding to questions from the public, applicants, and responding to public information act requests.
- c) Director Communications: Directors may contact Legal Consultants, without the Communication going through the Board of Directors, the

¹ The "Governance Committee" is currently a committee of the Board of Directors composed of the Board's officers: the President, Vice President, and Secretary-Treasurer. The Board President has discretion to determine what is tasked to the committees and the members of each committee. As such, the President may delegate the responsibility of the Governance Committee duties under this policy to another committee.

Governance Committee or the General Manager, in the following situations:

- i. To seek legal advice regarding any District matter where the Director has been sued in their official District capacity as a director for the District. A response providing legal advice will be provided to the entire Board of Directors unless any code of conduct allows the Legal Consultant to keep the advice privileged with just that director.
- ii. To seek legal advice or provide a comment relating to an item on the next District Board meeting agenda. A response providing legal advice will be provided to the entire Board of Directors unless any code of conduct allows the Legal Consultant to keep advice privileged with just that director.
- iii. To work with the Legal Consultant on a Director Request as approved by the Governance Committee, subject to the oversight of the Board President.
- iv. The Board President may contact the Legal Consultant for legal advice related to any item on the Governance Committee agenda, any item on a regular Board meeting agenda, a Director Request, any situation related to active litigation, or any urgent issue that necessitates a special or emergency meeting of the Board of Directors, subject to the oversight of the Governance Committee. The Board President must also submit a Director Request for tasks to Legal Consultant in accordance Section III.b. For the purposes of this Policy, an emergency meeting is limited to the definition of "emergency meeting" under the Texas Open Meetings Act.

d) District Consultant Communications: Communications between the Legal Consultant and a District Consultant are not subject to this Policy as a Legal Consultant may need to communicate with a District Consultant for the rendition of legal advice.

V. Professional Code of Conduct

This Policy does not replace or supplant the Legal Consultant's ethical obligations pursuant to the Texas Disciplinary Rules of Professional Conduct, the Texas Rules of Disciplinary Procedure, the Texas Lawyers Creed, and the American Bar Association's Model Rules of Professional Conduct or case law related to any applicable code of conduct for the practice of law. A Task or Communication may need to occur outside of the scenarios anticipated in this Policy to comply with the Legal Consultant's ethical obligations under these codes. For example, if the Legal Consultant knows the District may be substantially injured by an action, Legal Consultant must proceed as is reasonably necessary in the best interest of the District. This Policy does not change or revise the applicable law and codes related to legal doctrines such as the attorney-client privilege or attorney work product privilege.