




# ADMINISTRATIVE MEMORANDUM

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<b>ELECTRONIC COMMUNICATIONS USAGE POLICY</b>					
SECTION NO.	INDEX NO.	ISSUE DATE	REVISION DATE	CITY MANAGER APPROVAL	
200	61	6/95	12/6/2019		

## I. PURPOSE

In order to more fully comply with the California Public Records Act, California Government Code Section 6250, et seq., as amended from time to time (the "Public Records Act" or "Act"), this Policy shall serve to govern the City's use of technology resources for written communications used in carrying out City functions, activities and business.

This Policy applies to all elected and appointed City officials and City employees utilizing technology resources for the purpose of conducting City business, regardless of the user's location when accessing the City's email system, network, or other technology resource. This Policy also applies to City-hired contractors serving as City officials or otherwise fulfilling duties of a City employee.

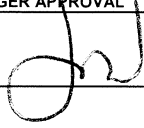
## II. DEFINITION

"Technology Resources" includes all electronic media and storage devices, software, and means of electronic communication including any of the following: personal computers and workstations; laptop computers; mini and mainframe computers; tablets; computer hardware such as disk drives, tape drives, external hard drives, and flash/thumb drives; peripheral equipment such as printers, modems, fax machines, and copiers; computer software applications and associated files and data, including software that allows or provides for access to external information technology services, such as the Internet or cloud storage facilities; electronic mail (email); telephones; mobile phones; smart phones; personal organizers and other handheld devices; pagers; voicemail systems; text messaging and instant messaging systems; and social media communications. "Technology Resources" is also intended to broadly include new or emerging electronic devices, technology, software and means of communications that may be developed or implemented in the future.

"Writing" includes any handwriting, typewriting, printing, photostating, photocopying, photographing, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing or in or as any electronic file, any form of communication or representation including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored. "Writing" also includes all papers, maps, magnetic or



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paper tapes, photographic films and prints, and text messages, and otherwise as defined in the California Public Records Act, Cal. Gov. Code Section 6250, et seq., as amended from time to time.

### III. POLICY

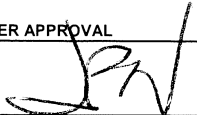
1. The City's technology resources and all electronic communications and other writings regarding City business are the sole property of the City of Buena Park. Emails and other electronic communications and writings stored in or as part of any City accounts, services, servers, "City social media sites" (as defined in City Council Policy Statement No. 44: "Social Media Policy") and/or other City technology resources, are intended for City-related business purposes only. The City reserves the right to retrieve and make proper and lawful use and/or disclosure of any and all communications transmitted through any City technology resource. The City retains the right, at its sole discretion, to select, maintain, replace, upgrade, assign, or authorize or rescind authorization for use of City computers and other technology resources.

The City's Social Media Policy defines "City Social Media Sites" as social media sites which the City officially establishes and maintains, and has editorial control over all content and postings. City social media sites are intended to supplement, but not replace, the City's required printed notices and standard methods of communications. Official City social media sites will be identified by a list maintained by the City Manager's Office.

2. Use of non-City issued email or other non-City issued technology devices to conduct City related business, is not recommended. City business should not be conducted using personal email accounts, personal social media sites, or other personal technology systems of City elected or appointed officials, employees, contractors or any other third party. A City elected or appointed official or employee should not conduct any City business using any email account, social media site, or technology resource belonging to that official's or employee's outside employer or other non-City business; and any such usage will make the non-City account or site subject to the Public Records Act with respect to the City business conducted thereon. Any City records that are sent, received, or maintained on any non-City email system or other non-City technology devices are the property of the City of Buena Park. The City reserves the right to retrieve and make proper and lawful use and/or disclosure of any and all City records that are transmitted or maintained through the user's personal email system or any other personal technology resource.



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3. The City respects the individual privacy of its officials, employees, and contractors. However, the privacy rights of a City elected or appointed official, employee, or contractor do not extend to (a) work-related communications, (b) the use of City-owned equipment, accounts, or services, including City email systems, City social media sites, and other technology resources, or (c) emails and other City records relating to City business transmitted or maintained using personal email systems, personal social media sites, other personal technology resources, other non-City issued email accounts, or other non-City issued technology devices.

- City elected or appointed officials, employees, and contractors have no reasonable expectation of privacy in communications transmitted over the City's email network or other City technology resources as such communications are not confidential, despite any password and/or login credentials.
- City records, even when stored on a home or personal email device, personal social media site, or other personal technology resource, or outside employer or business email or other technology resource, may also be recovered and discoverable in litigation.

## IV. REQUIREMENTS

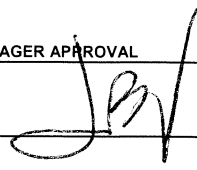
These requirements apply to all City technology resources and, to the extent that it exists contrary to City policy, to all personal technology resources used for City business, except as otherwise expressly stated.

1. City Technology Resources Limited to City Business. All messages transmitted on a City social media site, over the City's email system, or over any other City technology resource shall be limited to those which involve City functions, activities or other business, or that contain information essential to its elected or appointed officials, employees, or contractors for the accomplishment of City-related tasks.

2. Transitory Nature of Electronic Messages. Electronic messages relating to City business are temporary communications that shall not be retained, either electronically or in hard copy, unless retention is required by law or where retention of a particular message would serve a useful purpose for the City. Electronic messages do not



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become public records under the Public Records Act when they are intended for a temporary purpose and are discarded after that purpose is achieved unless they are subject to a litigation hold letter from the City Attorney's Office or a pending request made pursuant to the Public Records Act. Care shall be taken that no electronic messages or social media communications are retained for longer than the temporary period specified in this Policy unless they are meant to be official records. Electronic messages intended to be permanent records shall be filed as such and kept under the City's records retention policy, either electronically or in hard copy, to signify the permanent or long-term status of the record. Temporary communications, drafts, and interoffice notes and memoranda are not public records.

Electronic messages requiring retention and which should be filed as permanent records either electronically or in hard copy, may include, but are not limited to:

- General correspondence and/or interoffice messages regarding management, financial, operating procedures, or policy matters;
- Messages regarding City policy or the policy process;
- Messages regarding vital public information (for example, critical environmental data and reports); and
- Messages that otherwise are necessary to conduct the City's business.


3. Retention Schedule. Electronic messages retained in electronic form or in hard copy (under the considerations noted above) may be public records and shall follow the City's retention schedule in terms of how long any such public records must be kept pursuant to legal requirements. It is the responsibility of each City elected or appointed official, employee, and contractor to determine if an electronic message should be made an official public record and/or if it is covered within the scope of the City's records retention schedule. Electronic messages that are public records must be retained for two (2) years, or as specified in the City's retention schedule, whichever is longer.

4. Litigation Holds and Pending Public Records Requests.

- Notwithstanding any other provision of this Policy, no City elected or appointed official, employee, or contractor shall knowingly destroy electronic messages that may be subject to a litigation hold letter issued by the City Clerk's Office. A litigation hold places a "freeze" on the authorized



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destruction of a particular record or type of record due to a reasonably anticipated or ongoing claim, a pending regulatory or governmental investigation, a pending subpoena, or any litigation proceedings.

- No City elected or appointed official, employee, or contractor shall knowingly delete any electronic message that may be responsive to a pending Public Records Act request the City has received.
- Destruction of electronic messages subject to a litigation hold under this section may resume after notice is provided by the City Clerk.

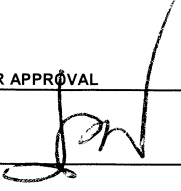
5. Management of Technology Resources. City elected or appointed officials, employees, and contractors who utilize other City technology resources, or who use personal technology resources, are solely responsible for the management of their electronic mailboxes and technology resource accounts. All technology resource users must periodically review electronic messages to determine when specific electronic messages are needed for City business past the date set for automatic deletion from the City's system as set forth in this Policy, and take appropriate action to store necessary electronic messages in a separate folder or network location, or printout and file in an appropriate subject file to ensure the content of the electronic message is preserved. Such stored electronic messages constitute public records subject to disclosure, unless otherwise exempt under the Public Records Act. City elected or appointed officials, employees, or contractors who use personal email accounts, personal social media accounts, and other personal technology resources for City business must manage such accounts and resources to be consistent with this Policy.

6. Non-City Record Materials. Electronic messages that do not meet the City's public record criteria should be deleted. These types of messages may include but are not limited to:

- Personal correspondence (i.e., "Let's do lunch," "Can I have a ride home?"); calendar confirmations; voicemails; other incidental communication.
- Communications that serve to convey information of temporary importance in lieu of oral communication.
- Unsolicited promotional materials.



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- Information and/or reference items (for example, something the receiver already knows and does not need to save or can be printed out and it is not needed as part of a support file of a City project.)

7. City Technical Limitations and Requirements.

- All electronic message communications will be deleted AUTOMATICALLY from the City's email system within 60 days of receipt or transmission.
- All incoming, sent, and deleted text messages that are older than 60 days, and not a public record (under the considerations detailed above), should be deleted from the user's City-issued technology resource.
- All City social media site postings that are older than 60 days and not a public record should be deleted from the City social media site.

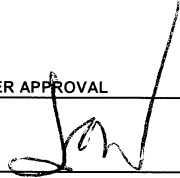
8. City Right of Access. The City may access any messages within the City's technological resources, wherever located, at any time regardless of content or storage. Access may occur for reasons that include, but are not limited to, random review, situations indicating impropriety, suspected violation of City policy, legal requirements, suspected criminal activities, breach of security, locating substantive information that is not more readily available by some other means, or for the performance of routine maintenance. The City may require City elected or appointed officials, employees, or contractors to review their personal email accounts, personal social media accounts, and other personal technology resources to determine whether they were used for City business, to disclose any records related to City business to the City, and to certify under the penalty of perjury as to the results and completeness of the review and disclosure.

9. Disclosure. Consistent with State and Federal law, the contents of technology resources may be disclosed within or outside of the City without the permission or knowledge of the City elected or appointed official, employee, or contractor.

10. Use of Private Email Accounts and other Personal or Non-City Technology Devices. All electronic files on personal technology devices pertaining to City business may be subject to public disclosure under the Public Records Act, or in cooperation with



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law enforcement, or as part of any litigation. All City business-related emails received by City elected or appointed officials, employees, or contractors in their personal email accounts must be forwarded to the City-issued email address, and all City business-related emails sent by City elected or appointed officials, employees, and City contractors, must be sent using the City's email account. Text messaging and personal social media sites may be used to conduct City business; however, they are subject to Public Records Act Requests or subpoenas.

11. Responding to Public Records Requests. In the case of a Public Records Act request or subpoena for electronic messages in the personal account or other personal technology resource of a City elected or appointed official, employee or contractor, the City Clerk will request in writing that the user search that user's personal accounts, devices, and other technology resources for any responsive City records and turn over all City records for review by the City Clerk and, as applicable, by the City Attorney.

Upon receipt of a public records request for City records that relate to a former City elected or appointed official, employee and/or contractor, the City Clerk's office shall make reasonable efforts to obtain any responsive records from the former elected or appointed official, employee and/or contractor. The City Clerk's office shall contact the former City elected or appointed official, employee or contractor, to request that such person conduct a search of his/her personal email account and other personal technology resources to determine if he/she has any City records responsive to the public records request, and to submit any responsive records to the City to facilitate the City's response to the public records request.

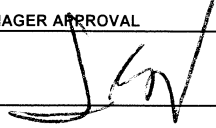
## V. CONFIDENTIALITY

1. While the City's email system and other technology resources may provide for the sending of material referred to as PRIVATE, users must be aware that such communications are accessible to certain employees of the City who have the responsibility to monitor and control the computer systems of the City. As with all computer systems, there is also the possibility of unauthorized access by people for whom the communication was not intended. Therefore, use of this capability must be exercised with appropriate caution.

2. It is a violation of this Policy, and an abuse of authority, for any City elected or appointed official, employee, or contractor, including system administrators, supervisors,



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or programmers, to access the City's email, computers, servers, or other technology resources for purposes of satisfying idle curiosity about the affairs of others, or without having a substantial business purpose for accessing the files or communications of others. Elected or appointed officials, employees, or contractors found to have engaged in such "snooping" or other prohibited actions may be subject to discipline and/or other sanction consistent with City policies and procedures. In addition to any other sanction imposed, the City may restrict or remove an elected or appointed official's, employee's, or contractor's access to the City email system or other technology resource upon determination of violation of this Policy.

## **VI. PROHIBITED USES OF CITY EMAIL, CITY SOCIAL MEDIA SITES, AND OTHER CITY-ISSUED TECHNOLOGY RESOURCES**

A determination by the City that a City elected or appointed official, employee, or contractor has engaged in any prohibited conduct listed below may subject that individual to disciplinary action or other sanction, including but not limited to: termination; restriction on his/her use or access to the City's technology resources; or, such other remedies as may be authorized by City policies and procedures or applicable law.

1. Any use for or in connection with the establishment or conduct of outside employment, private, profit-making activity such as "for sale" notices and wanted ads, or for other personal or financial gain or solicitation.
2. Support or opposition to, or fundraising for campaigns, candidates running for elected office, or for ballot measures.
3. Messages of a religious nature or promoting or opposing of religious beliefs.
4. Transmitting pictures, information, comments or other text that is insulting, offensive, disrespectful, discriminatory, demeaning, defamatory, pornographic, sexually suggestive or sexually explicit.
5. Communications that violate the City's policies against discrimination, harassment, or retaliation based on sex or gender, pregnancy, childbirth (or related medical conditions), race, color, religion, national origin, ethnicity, ancestry, age, physical disability, mental disability, medical condition, marital status, sexual orientation,





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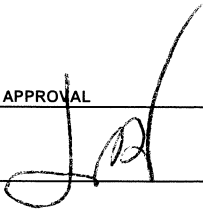
family care or medical leave status, military status, veteran status, or any other status protected by State and Federal laws.

6. Threats of violence or abusive conduct, sexual or ethnic slurs, obscenities, or any representation of obscenities.
7. Libel, slander, or defamation.
8. The purchase of applications or programs through the use of a City-issued device, unless permission is granted by the department head.
9. Using the City's network for personal access to any type of social media, including but not limited to Facebook, Snapchat, Twitter, Instagram, chat rooms, blogs, etc., except when authorized for City social media accounts.
10. Use of software not required for City business or other official activities, use of software for games, or any other entertainment software.
11. Attempting to circumvent security and data protection policies.
12. Communications that constitute any violation of any City ordinance, resolution, policy or procedure or any other action contrary to the best interests of the City.
13. Any use related to promoting, planning or participating in personal activities, hobbies, or private events.
14. Any communications for any unlawful or illegal purpose.
15. Any communications for City-wide broadcast purposes, without prior approval or authorization.

Violations of this Policy shall be reviewed on a case-by-case basis by the City Manager, City Attorney, Human Resources Director, and/or department head. Violation of this Policy may result in loss of or restriction of a user's privileges as to the City's technology systems at any time without prior notice. In addition, a City email user who violates this Policy may be subject to disciplinary or legal action up to and including termination from employment and/or criminal or civil penalties or other legal action.



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## VII. ACKNOWLEDGMENT OF RECEIPT

Each City elected or appointed official, employee, and contractor shall, prior to commencement of work or services, sign an acknowledgment confirming receipt of this Electronic Communications Usage Policy, as set forth in Exhibit "A", attached to this Policy.



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## EXHIBIT "A"

### ACKNOWLEDGEMENT OF RECEIPT FORM REGARDING CITY OF BUENA PARK ELECTRONIC COMMUNICATIONS USAGE POLICY

I, \_\_\_\_\_, certify:  
Print Name

1. I have received a copy of the City of Buena Park Electronic Communications Usage Policy. I acknowledge and understand the terms of this Policy and agree to abide by the terms at all times.

2. I understand that I may be requested to conduct a search of my personal email system, personal device, personal files, and personal accounts, including social media accounts, for any agency related records in response to a public records request.

3. I understand that violation of this Policy may result in loss of or restriction upon my privilege to use City email or other technology resources at any time without prior notice.

4. I further understand that my violation of this Policy may subject me to disciplinary or legal action up to and including termination from employment and/or criminal or civil penalties or other legal action.

5. If employee, check box:

I further acknowledge that this document will be placed in my personnel file.

6. If contractor, check box:

I further acknowledge that violation of this Policy may result in termination of my contract or other relationship with the City of Buena Park.

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

By: \_\_\_\_\_  
(Signature)

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Department: \_\_\_\_\_